Thomas 1564 Ongdan

: Lyttelton tenures in Englysshe

Thomas Ongdan

35. c. 75

Fee symple.

Estate of inheritāce — General.

Fee tayle Especial

Aft the comen lawe. — Aft possibi=te of yssue

Curtesy

Franktene of Englande

Franke tenemt. — ment only. Dower.

Terme of lyfe.

Terme of others (lyfe.

Pos=sessi=on of — After the custome.

☞ Also note here that frankt tene=ment after the custome, may be de=uyded in lyke maner as frankte=nement by the comon lawe is.

Terme of yeres.

Real. — Warde of lande.

To holde at wyll.

Chatel.

Personall. All goodes mouables.

TEnaunt in fe symple is he which hath landes or tenementes to holde to him and to his heyres for euer And it is called in latin feodum simplex, for feodū is called inheryptaunce, and simplex is as muche to say as lawfull or pure, & so feodum simplex is as much to say as lawfull or pure inheryptaunce. For yf a man wyll purchase landes or tenementes in fee simple, it behoueth hi to haue these wordes in his purchase: to haue & to holde vnto him and to his heyres: for these wordes his heyres make ꝑ estate of inheryptaūce Anno. 20. H. 6. folio. 38. what is fee sīple

For yf any man purchase landes by these wordes, to haue & to holde to hym for euer, or by suche wordes to haue and to holde to him & to his assygnes for euer In these. ii. cases he hath none estate but for terme of lyfe: for that, that he lacketh these wordes, his heyres: which wordes onely make the estate of inheritaunce, in al feoffementes and grauntes.

¶ And yf a man purchase lādes in fe simple & dye without yssue, euery one that is hys next colyn collaterall of the hole blode, howe farre so euer that he be from him of degre, may inheryte & haue ꝑ same lande as heyre to him. But if there be fa-

ther & sonne, & the father hath a brother whiche is vncle vnto the sonne, and the sonne purchaseth lãde in fee symple and dyeth without yssue lyuynge the father, the vncle shal haue the lande, as heyre vnto the sonne & nat the father (yet the father is more nye of blode vnto the sõne) for that, ẏ there is a grounde in lawe, ẏ inherytaunce may lynyally discende, but nat lynyally ascende, yet yf the sonne in suche case dye without yssue & his vncle entreth into the lande as heyre vnto the sonne so as he ouhgt by the lawe, & after yf the vncle decease wout yssue lyuynge the father, than shall the father haue the lãde as heyre vnto the vncle, & nat heyre vnto the sonne: for that, that he comethe vnto ẏ lande by collaterall discent, & nat by lynyall ascencyon.

Maxie.

And in such casewhere the sõne purchaseth lande in fee symple & dyeth without issue, they of his blode on the fathers syde shal inheryte as heyre vnto him, before any of the blode of the mothers syde But yf he haue none heyre on ẏ fathers syde, than shal ẏ lande discende vnto his heyre on the mothers syde. And this is ẏ opinion of al the Justyces. M. xii. E. iiii folio. xiiii. But there it was holden yf any lande discende vnto a man by the fathers syde whiche dyeth without yssue, than

than his next heyre on the fathers syde shall inherite vnto him (that is to say) ꝑ next of blode of the father of the graund fathers syde. And for defaute of suche an heyre, they that be of the fathers blode of the part of the mother of the father (that is to say the graundmother ought to inherite. And yf there be no suche heyre on the fathers syde, than the lorde shal haue the lande by eschete. And so it is if a man take a wyfe inherite in fee symple, which hath yssue a sonne & dyeth, & the sone entreth into the tenementes as sonne and heyre vnto his mother, & after dyeth without yssue, the heyres on the mothers syde ought to inherite the tenementes, & nat the heyres on the fathers syde. And yf there be none heyres on the mother syde than the lorde of whom the same lāde is holden, shall haue the same lande by eschete. In the same maner it is yf landes discēde vnto the sonne on ꝑ father syde, and entreth & after dyeth without yssue, the lande shall discende vnto the heyres on the fathers syde, & nat vnto ꝑ heyres on the mother syde. And yf there be none heyres on the father syde, than the lorde of whom the lande is holden shal haue ꝑ same lande by eschete. And so ye may se ꝑ dyuersyte, where the sone purchaseth lā des in fee symple, & where he cometh in-

Dyuersyte.

to those lādes or tenemētes by discēt on the fathers syde, or on the mothers syde.

* The elder son is more worthy of blode

¶ Also yf there be thre brethern, & the myddle brother purchaseth lande in fee symple and dyeth without yssue, þ elder brother shal haue the lande by discent & nat the ponger. Also yf there be. iii. brethern, & the ponguest brother purchaseth lande in fee symple and dyeth wout issue the elder brother shall haue the lande by discēt & nat þ myddle brother: for that, þ the eldest brother is more worthy of blod

Marie.

¶ And it is to be vnderstande that no mā shall haue lande in fee symple by discent as heyre vnto any man, but that he be his heyre of the hole blode. For yf man haue issue. ii. sonnes by. ii. bentres & the eldest purchasē lāde in fee symple and dyeth wout yssue, þ ponger brother shal nat haue the lāde, but the vncle of þ elder brother or some other his nyghe cosyn shal haue it: for that, that the ponger is but of the halfe-blode to the elder brother. And yf a mā haue a sonne and daught by one bentre, and a sonne by another bentre, & the sonne by the fyrst bentre purchaseth lāde in fee symple & dyeth wirhout yssue, the syster shall haue the lande by discent as heyre vnto her brother & nat þ ponguest brother: for that, that the syster is of the hole blode to her eldest brother.

And

¶ And also where a man is seased of lāde in fee symple and he hath yssue a sonne & a daughter by one ventre, & a sonne by a nother ventre & dyeth, and the elder son entreth & dyeth wout issue, the daughter shall haue the lande, and nat the yongest sonne, and yet is the yonger sonne heyre vnto his father, and not his brother. But yf the elder sonne entre nat into the lāde after the deth of his father, but dyeth be fore entre made by him, than the yonger brother may entre and haue the lande as heyre vnto his father. But where the elder sōne in the case aforesayd entreth aft the death of hys father and therof hath possessyon, than the syster shall haue the lāde. Quia possessio fratris de feodo simplici facit sororē essem heredem. For the possessiō of the brother in fee simple maketh the syster to be heyre. Maxie.

¶ But if there be.ii. bretherne bydiuers ventres, and thelder is seased in fee simple and dyeth without yssue, & his vncle entreth as heyre vnto hym, whiche also dyeth without yssue: thā the yonger brother may haue ẏ lande as heyre vnto his vncle, bycause he is of the hole blode to him though he be but of halfe blode vnto hiselder brother. An.xl.E.iii.fo.ix.by Fencot. And the same kynge An.xxiiii. Folio.vii.

What is inherytaũce

☞ And it is to vnderstãde ẏ this worde inherytaunce is nat onely vnderstande where a man hath landes or tenementes by discent of heritage. But also euery fee symple or fee tayle that a mã hath by his purchase, may be sayd inherytaunce: for that, that his heyres may inheryte him. For in a wryt of Ryght that a man bryngeth of lande that was of his owne purchase, the wryt shall say: Quã clamat esse ius et heriditatem suam. That is to say whiche he claymeth to be hys ryght and his inherytaũce. And so it shalbe sayd in dyuers other wryttes which a man or a womã bryngeth of theyr owne purchase as it appereth by the register.

*The forme of a wryt.

☞ And of suche thynges as a man maye haue a manuel occupacyon: possession or rescepte, as of landes, tenementes, rẽtes and such other, a man shal say in his pledynge and in way of barre, that one such was seased in his demesne as of fee. But of suche thynges that lye nat in manuell occupacyon. &c. as of auousõ of a church and such maner thynge, there he shal say that he was seased as of fee, & nat in his demesne as of fee. And in latyn it is in ẏ same case sayde. Quod talis fuit seisitus in dñico suo vt in feodo, that is to saye, ẏ suche one was seased in his demeane as of fee, & in that other, Quid talis fuit sei

situs

ſtitus. ꝛc. bt de feodo, that is to ſay ꝑ one ſuche was ſeaſed as of fee.

☞ And note well that a man may nat haue a moꝛe large ne greater eſtate of inheryaunce than fee ſymple. * The moſt great inheryaunce.

¶ Alſo purchaſe is called the poſſeſſyon of landes oꝛ tenementes that a man hath by his dede oꝛ by his agremẽt, vnto whiche poſſeſſyon he cometh nat by diſcent of any of his auncẽſtres oꝛ of his colyns, but by his owne dede.

¶ Fee tayle. Cap. ii.

TEnaunt in Fee tayle is by force of the ſtatut of Weſtm. 2. Cap. 1. foꝛ at the comonlawe before the ſayd ſtatute al inheryaunce were fee ſymple foꝛ all the gyftes which ben ſpecifyed with in the ſame ſtatute, were in fee ſymple cõdicionally, as it appereth by the reherſal of the ſame ſtatut. And nowe by the ſame ſtatute tenaunt in the tayle is ſayd in. ii. maners, that is to ſay, tenaũt in tayle generall, and tenaunt in tayle ſpeciall. Diuiſiõ

¶ Tenaunt in tayle generall, is where landes oꝛ tenementes be gyuen to a man and to his heyꝛes of his body begotten. In this caſe it is ſayd generall tayle: foꝛ that, that whatſoeuer woman that the tenaunt taketh vnto wyfe, if he haue many wyues, and by eche of thẽ hath yſſue, yet eche one of theſe yſſues by poſſybylyte Generaltayle

may inherite the tenementes by force of the sayde gyfte, bycause that euery suche yssue is of his body ingendred.

¶ In the same maner is where landes & tenementes be gyuē to a woman & to the heyres compnge out of her body, how be it that she haue many husbandes, yet the yssue that she may haue by eche husbāde, may iherite as yssue in the tayle by force of such gyft. And therfore suche gyftesdē called generall tayle.

Specyal tayle

¶ Tenaunt in tayle specyal, is where lādes and tenementes be gyuen vnto a mā and his wyfe and the heyres of theyr.ii. bodyes begotten. In such case none may inherite by force of suche gyft, but those that be engendred betwene them two, & it is called especyall tayle for that yf the wyfe dye, and he taketh another wyfe & hath yssue, the yssue of the seconde wyfe shal neuer inherite by force of such gyft,

Franke marryag may be made as well after the espousels a a fore. H. 4. Ed. 3.

nor also the yssue of the seconde husbāde yf the fyrst husbande dye.

¶ In the same maner it is where landes and tenementes be gyuen by a man vnto another man with a wyfe, whiche is the daughter or colyn to the gyuer in franke maryage, which gyft hath inheryteaunce by these wordes franke maryage vnto it annexed: howe be it that they be nat expressely sayd or reherced in the gyft, that

is

is for to say, that these donees shall haue these landes or tenementes to thē and to theyr heyres betwene thē two engendred and this is sayd especyall tayle for ẏ the issue of ẏ secōde wyfe may nat iherite. &c.

☞ And note well that thys worde talliare is to say to set vnto some certeyntie or els lympt vnto some certayne inherytaunce. And for that, that it is lympt and set in certayne, what issue shall inheryte byforce of such gyftes, & howe lōge that the inherytaunce shall endure. Therfore it is called in latin Feodum talliatum. i. hereditas in quadam certitudine limitata. For yt tenaunt in generall tayle dye without yssue, the donour or his heyres shal inheryte as in theyr reuercion. In the same wyse is of the tenaunt in ẏ tayle specyall. &c. For in euery gyft of the tayle without more sayenge, the reuercyon of fee symple is in the donour.

what fe tayle is

¶ And the donees and theyr heyres shall do to the donour and to his heyres, such seruyces as ẏ donour doth vnto his lord next aboue. Except the donees in franke maryage, which shall holde quietly from euery maner sernyce (but yf it be for fealte) vntyll the fourth degre be past. And after that the. iiii. degre is past, the yssue in the fyft degre & so forth ẏ other issues after him, shall holde of the donour & of his

☞ By whatser uyces ẏ tenaūtz in tayle shall holde. of their donour

his heyres, as they holde ouer as is afore sayde.

Howe the degrees in fräke marpage shalbe accompted.

¶ And the degres in fräke marpage shal be accompted in suche maner, that is to say, frō the donour to the dones in fräke marpage the fyrst degre: for that, that the wyfe that is one of the donees ought to be the daughter, syster, or other cosyn to the donour. And fro ꝑ dones vnto theyr yssue shalbe accompted the seconde degre And from theyr yssue vnto theyr yssue, ꝑ thyrde degre and so forth ꝛc.

¶ And the cause is, for that after euerye suche gyft, the yssues that come of the donour, and the yssues that come of the donees after the fourth degre past, of both partyes in suche forme to be accompted, may betwene them by the lawe of holye church entermarye. And that the done in franke marpage shal be the fyrst degre of the .iiii. degres a man may se in a ple bpō a writ of Ryght of warde. An. xxxi. E. i. where the pleyntyf pleded, that his ayle or grandfather was seased of certayne landes. ꝛc And ꝑ he held of another knyght seruyce ꝛc. whiche gaue the lande vnto one R. D. with his syster in franke marpage. ꝛc. And al these tayles before sayd be

Fourme of the statute.

specified in the sayd statute of Westm. 2.

☞ Also there be dyuers other estates in the tayle: howbeit that they be not specyfyed

fyed by expresse wordes in the sayd esta=
tute, but they be taken by the equite of ẏ
statute, as yf landes be giuen vnto a man
and to his heyres males of his body ingē
dred. In suche case his heyre male shal in
heryte, and the issue female shal neuer in
heryte: yet in these other tayles aforsayd
it is otherwyse. In the same maner it is
yf landes be gyuen to a man and to hys
heyres females of his body ingēdred. In
this case his yssue females shal inheryte
by force and fourme of the sayd gyft, and
nat the yssue male, for that in such cases
where the gyft is. Who ought to inhe=
rite and who nat, the wyll of the donour
shalbe obserued. And in the case where
landes be gyuen to a man & to his heyre
males yssuynge of his body, and he hath
yssue .ii. sonnes & discease, the elder sōne
entreth as heyre male and hathe yssue a
daughter and diceaseth, his brother shal
haue the lande, and nat the daughter, for
that ẏ brother is heyre male. But it shal=
be otherwyse in these other tayles afore
sayd, which ben specified in the sayd sta
tute, the daughter shal inheryte before ẏ
brother.

* The wyll of the do=nour in al thigꝫ shalbe obser=ued.

☞ Also yf lande be gyuen vnto a man &
to his heyres males of his bodye ingen=
dred & he hath yssue a daughter, whiche
hath yssue a sonne & disceaseth, and after
that

Tayle vnto the heyre males.

that the doner disceaseth: in this case the sonne of the daughter shal nat inherytе by force of the tayle, for that whosoeuer shal inherytе by force of a gyft in ẏ tayle made vnto his heyres males, behoueth to conuey his dyscent alway by the males. M.xviii.E.iii.fo.lxv. But in suche case the donour shall enter, for that the donee is dead wout yssue male in the lawe. In so much ẏ the yssue of the daughter may nat conuey to hym the dyscent of heyre male. And in the same maner is it where landes be giuen to a man & his wyfe and to his heyres males of theyr two bodyes ingendred. &c.

The discent of ẏ heyres males.

☞ Also yf tenementes be gyuen to a mā and his wyfe, and to the heyres of the body of the man ingendred, in this case the husbāde hath estate in the generall tayle and the wyfe but estate for terme of lyfe.

Whan the husbande hath estate in tayle especiall & whan ye wyfe

☜ Also yf lādes be gyuē to the husbāde and to the wyfe, and to the heyres of the husbande which he ingendreth of ẏ body of the wyfe, in thys case the husbāde hath estate in the specyall tayle, and the wyfe but for terme of lyfe.

¶ And yf the gyft be made to the husbāde and to the wyfe, and to the heyres of the wyfe of her body by the husbande ingendred, than the wyfe hath estate in the specyal tayle, and the husbāde but for terme

of

of lyke. But yf lãdes be gyuen to the husbande and the wyfe, & to the heyres that the husbande ingendreth on the body of the wyfe. In this case both hath estate in the tayle for that this worde (heyres) is nat lymytted nomore to the one than to the other.

Also yf landes be giuen to a man and his heyres that he ingendreth on the body of his wyfe. in this case the husbande hath estate in the tayle specyall, and the wyfe nothynge.

An. 12. H. 4. fo. 1. twyse alleged. &c.

Also yf a man haue yssue a sonne and dyscreaseth, and the lande is gyuen to the sonne and to the heyre of the body of his father ingendred, this is a good tayle, & yet the father was dead at the tyme of ỹ gyft.

Also there be many other estate in the tayle by the equite of the sayd estatute ỹ be nat specified here. But yf a man gyue landes or tenementes to another to haue and to hold to him & to his heyres males or to his heyres females, he to whõ such gyfte is made hath fee symple: for that, ỹ it is nat lymytted by the gyft of what body the yssue male or female shalbe, and so it may nat in any thynge be taken by the equyte of the sayd estatute, and therfore he hath fee symple.

Fee symple conydycyonally.

Tenaunt

☞ Tenaunt in tayle after possibylite of yssue extyncte. Cap. iii.

TEnaunt in the tayle after possybylyte of the yssue extincte, is where as landes or tenementes be gyuen vnto a man and his wyfe in special tayle of one of them discease without yssue, he that survyueth is tenaunt in the tayle after possibylyte of yssue extyncte. And yf they haue yssue durynge the lyfe of the yssue, he that survyueth shal nat be sayde tenaunt in the tayle after possybylyte of yssue extincte. Yet yf the issue discease without issue, so that there be none a lyue that may inherite by force of the tayle, than he that survyueth of the dones is tenaũt in the tayle after possybilyte of yssue extyncte.

Marie. ☞ Also yf landes be gyuen to a man and to his heyres that he ingẽdred in the body of his wyfe. In this case ỹ wyfe haue nought in the tenementes, and the husbande is sealed as done in speciall tayle. And in this case yf the wyfe discease without issue of her body ingẽdredby her husbande, than the husbande is tenaunt in the tayle after possibilite of yssue extincte ☞ And note well that none may be tenaunt in the tayle after possibylyte of yssue extyncte, but one of the dones or ỹ done in speciall tayle, for the done in generall

possibilite of yssue extincte. Fo. viii.
neral tayle may neuer be sayd tenaunt in the tayle after possibilite of yssue extinct for that alway durynge his lyfe, he may by possybylite haue yssue that may inheryte byforce of the same tayle. And so in the same maner the issue that is heyre vn to the donees in a speciall tayle may nat be sayd tenaunt in tayle after possibilyte &c. causa qua supra.

☞ Also tenaũt in tayle after possibilite of yssue extinct, shall neuer be punysshed of wast, for the ĩheritans that ones was in him. An. 10. H. 6. fo. 1. But he in the reuercion may entre, yf he doth alien in fe. An. 45. E. 3. fo. 22.

¶ Tenaunt by the Curtesye of Englande. Cap iiii.

Tenaunt by the curtesy of Englãde is where a man taketh a wyfe seased in fee symple, or of fee tayle general, or as heyre in the tayle specyall, & hath yssue by the same wyfe male or female. The yssue after beynge dead or alyue yf the wyfe discease, the husbãde shal holde the lande duryng his lyfe by the lawe of Englande & this iscalled tenaunt by the curtesye, for that is nat vsed in none other realme but only in Englande. And some say that it shall nat be sayd tenaunt by the curtesye, but yf the chylde that he hath by his wyfe be harde crye, for by ẏ

crye is the proofe that the chylde that he had by his wyfe was borne.

¶ Tenaunt in dower.

TEnaunt in dower, is where a man is seased of certayne landes or tenementes in fee symple, or in tayle generall, or as heyre in the tayle special and taketh a wyfe and dieseaseth, the wyfe after the diseease of her husbande shalbe endowed of the thyrde part of such landes or tenementes that were her husbandes in any tyme durynge ther couerture to haue and to holde to the same wyfe in seueralte, by metes and bondes for terme of her lyfe, whether she haue by her husbande issue or none, and of what age that the wyfe be, so that she passe the age of.ix. yere at the tyme of her husbandes death or els she shal nat be endowed. And note well that by the comon lawe the wyfe shal nat haue for her dower but the thyrde pt of the tenementes, whiche were her husbandes durynge the espousels. By custõe of some countre she shal haue the halfe, & by custome of some towne or brough she shall haue the hole, and in all these cases she shalbe sayd tenaunt in dower.

of what age the wyfe shalbe endowed & howe A.12.H.3.fo.3. by Bāk. & Lokin

Also there is.ii. other maner of dowers that is to say dower called dowement at the church doze, and dower called dowement by the fathers assent. Dowement at

the

the churche doze, is where a man of full age is seased in fee symple which shalbe wedded vnto a wyfe, whan he cometh to the church doze and there after affyaūce and trueth plyght made betwene thē endoweth his wyfe of his hole lande oz of the halfe oz lesse parcel, and there openly declare the quantyte of the certeyne of his lāde that she shal haue foz her dower In thys case the wyfe after the death of her husbande shal entre into the sayd quā tyte of lande, of which her husbande endowed her without the assygnement of any man. Dowment by the fathers assēt, is where the father is seased of tenementes in fee, and his sonne and heyres apparent whan he is wedded, indoweth hys wyfe at the church doze of parcell of the landes oz tenementes of his fathers of ꝑ assent of hys father and assygneth ꝑ quā tyte of the parcels. In this case after the death of the sonne, the wyfe shal entre in the same parcel without the assygnemēt of any other. But it hath ben sayd in thys case that it behoueth the wyfe to haue a dede of the father, prouynge his assent & cōsent of such indowement. And yt after the death of the husbande, she entre and agre vnto any such dower of the sayd. ii. dowers at the churche doze, than she is concluded to clayme any other dower by the

Dower at the churche doze.

Dower by the fathers assent

A wyfe is asked Ed. 40. E. 3. Fo. 45.

the comon lawe of any landes or tenemē
P.12.E. 4. Fo.3. whiche do agre vnto ye same. A rule.
tes, whiche were of her sayde husbande. But yf she wyll she may refuse suche dower at the church dore, and than she may be endowed after the course of the comō lawe. ☞ And note well yt no wyfe shal be endowed of the fathers assent in the forme aforesayd, saue where her husbāde is sōne and heyre apparant to his father.

Inq̄re.
¶ Inquere in these .ii. cases of endowement at the church dore yf the wyfe at ye tyme of the death of her husbāde pas nat the age of .ix. yeres, yf she shal haue such dower or no.

Where as the wyfe may entre īher dower Bout assygnement, & where nat.
☞ And note well ẏ in al cases where ye certaynte appereth what landes or tenementes the wyfe shal haue for her dower the wyfe may entre after the death of her husbande without assygnement of any other. But where the certaynte appereth nat, as to be endowed of the thyrde parte to haue in seueral, or to be endowed of ẏ halfe after the custome to holde in seueralte. In such cases it behoueth that her dower be vnto her assigned after ẏ death of her husbande, bycause it is nat lympt before the assignementes what part of lādes or tenementes she shall haue for her dower. But yf there be .ii. ioyntenauntes of certayne lādes in fee, and the one alyeneth that, that to him parteyneth and be

An.40. C.4.fo. 23.by Fencot.

longeth

longeth to another in fee, whiche taketh a wyfe and after dyeth. In this case the wyfe for her dower shal haue the thyrde part of the halfe that her husbãde purchased, to holde in comon and occupy in comon as her part amounth with ꝑ heyre of her husbande, and with the other ioynt tenaunt which alyened nat, for ꝑ in such case her dower maye nat be allygned by metes and boundes.

¶ And it is to vnderstande that the wyfe shal nat be endowed of landes or tenemẽtes ꝑt her husbande ioyntly helde with another at ꝑ tyme of his death. But wher he holdeth in comon otherwyse it is, as in the case aforesayd. And it is to wyt ꝑt ꝑ the tenaunt in tayle endowe his wyfe at the churche dore as it is foresayd that shal serue for lytle or naught to the wyfe for that, that after the death of her husbande the issue in the tayle may entre vpon the possessyon of the wyfe, & so maye he in the reuercion ꝑt there be none issue in the tayle alyue.

* The wyfe shal nat be endowed of the ioynt estate of her husbande. An. 24. H. 4. Fo. 14.

¶ Also ꝑ a man seased in fee symple beynge within age endowe his wyfe at the churche dore, & dyeth & the wyfe entreth In thys case the heyre of the husbande may put her out. But otherwyse it is as it semeth where the father is seased in fe and the sonne wtin age endowe his wyfe

Where allygnement of dower shalbe voyde

of

by reason of within age. &c. Dower de la plus beale.

of his fathers assent, the father than beynge of ful age.

¶ Also there is another dower which is called Dowement de la plus bealte. And that is as in such case that a mā is seased of .xl. acres of lande and he holdeth .xx. of the sayd .xl. acres of one mā by knyghtes servyce, and ye other .xx. acres of another in Socage and taketh a wyfe and a hath yssue a sōne and dyeth, his sonne beynge within the age of .xiiii. yeres, and the lorde of whō the lande is holden by knyghtes servyce entreth into the .xx. acres of lande holden of him, and them hath & occupyeth as wardē in chyualre duryng the chyldes nonage, & the chyldꝭ mother entreth in the remnant, and it occupyeth as gardyne or wardyne in Socage. ¶ In this case ꝑ wyfe bryng a wryt of Dower agaynst ꝑ wardyne in Chyualry to be endowed of ꝑ tenemētes holdē by knyghtꝭ servyce in ꝑ kyngꝭ court, or in any other court ꝑ wardyn in chyualry may plede in such case al ꝑ mater, & shew howe ꝑ wyfe is wardeyne in Socage as it is aforsayd sayde, & pray that it may be adiudged by the court that the wyfe endowe her selfe of the most fayre called plus beale of the tenementes that she hath as wardeine in Socage after the value of the thyrde pte that she claymeth to haue of ꝑ tenementꝭ

in

in chyualrye by her wyrt of Dower, and yf the wyfe may nat gayne say it, thā the iudgement shalbe made that the wardeyne in chyualry shal holde the landes holden of him durynge the nonage of the chylde quyte from the woman. &c. And that the woman may endowe herselfe of the most fayre parte of the landes that she hath, as wardeyn in Socage to the valure of the thyrde part that the wardeyn in chyualry hath. &c. And after such iudgement gyuen, the wyfe may take her neyghbours and in theyr presens endowe her selfe by metes and boundes of the fayest part of ꝑ tenementes that she hath as wardeyn in Socage to the valure of the thyrde parte of the landes that the wardeyne in Chyualry hath, and that to haue and hold for terme of her lyfe. And suche dower is called dower of ꝑ fayrest pt, or de pl⁹ beale.

¶ With thys agreeth. 9.45.E.3. Fo.4. But ther it was sayd, that after the tyme that the heyre come to hys full age, the wyfe shal haue a newe accyon of Dower agaynst the heyre to be endowed of the thyrde part of all that the man dyed seuted. And note well that suche dowement may nat be, but where the iudgement is gyuē in ꝑ kynges court, or in some other court. And the wyfe may do this forsaluacyon of ꝑ state of the wardeyne in Chyualry

nalry durynge the nonage of the chylde. And so may ye se fyue maner of dowers, that is to say dowement by the common lawe, Dower by custome, Dower at the churche dore, Dower of the fathers assent, and Dower of the most fayre. And remembre that in euery case where a mā taketh a wyfe seased of such estate of tenemētes. &c. so that the issue that he hath by his wyfe may by possibylyte inherytte the same tenementes of such estate that ꝑ wyfe hath, as heyre to the wyfe. In such case after the wyfe is dead, he shall haue the same tenementes by the Curtesye of Englande, and otherwyse nat.

* fyue maner of dowers.

Tenaūt by the curtesy.

Marke. ¶ And also in euery case where the wyfe taketh an husbande seased of suche estate of tenementes &c. so that by possybylyte it may hap the wyfe to haue some issue by her husbande, and that the same issue may by possybylyte inherytte the same tenementes of such estate that the husbāde had, as heyre to his father, of such tenementes she shal haue her dower, & other wyse nat. For yf the tenementes be gyuē vnto a man and to the heyres that he get teth on his wyues body, in such case the wyfe hath naught in the tenemētes. And the husbande hath estate but as done in special tayle. Yet yf the husbande dye wout issue, the same wyfe shalbe endowed of the

An. 12. H. 4. Fo. 1.

of the same tenementes, for that the issue that she by possybylyte myght haue had by the same husbande, may inheryte the same tenementes. But yf the wyfe dyscrase lyuynge the husbande, & after he taketh another wyfe, the seconde wyfe shal nat be endowed in this case. cā qua supra

¶ A man was seased of certayne landes, and toke a wyfe, and after alyned ꝑ same landes with warranty, and after the feoffour and feoffe dyed, and the wyfe of the feoffour bryngeth an accyon of Dower gaynst the yssue of the feoffe, and he vouched the heyre of the feoffour, & durynge the voucher and nat termyned, the wyfe of the feoffe bryngeth an accyon of Dower agaynst the heyre of the feoffe, & demaundeth the thyrde part of all that her husbande was seased, and wolde nat demaunde the thyrde part of those two partes that her husbande was seysed it was iudged that she shulde haue no iudgemēt vntyll the tyme that the other plee were determyned. Also note ꝑ Wauasour sayth that yf a man be seased of landes & committeth felony, and alyeneth and after is attaynted, the wyfe shal haue good accīō of Dower agaynst the feoffe. But yf it be escheted vnto the kynge or vnto ꝑ lorde, she shal haue no wryt of Dower. And so se the dyuersyte, & inquyre the cause. Nota.

¶ Tenaunt for terme of lyfe. Cap. vi.

TEnaunt for terme of lyfe is where a man letteth landes or tenemẽtes to a mã for terme of lyfe of ꝑ lease, or for terme of lyfe for another man. In suche case the lessee is tenaunt for terme of lyfe. But by comon language he that holdeth for terme of his owne lyfe is called tenaunt for terme of lyfe, and he that holdeth for terme of another mans lyfe, is called tenãt for terme of another mans lyfe. And it is to be vnderstãde that there is feoffoure & feoffe, donour and donee, lessour & lesse. The feoffour is properly where a man enfeoffeth another in any landes or tenementes in fee symple, he ꝑ maketh the feoffement is called feoffour, and he vnto whõ the feoffement is made is called feoffe, and the donour is proper ly where a man giueth certayne lãdes or tenementes to another in the tayle, he ꝑ maketh the gyft is called donour, & he to whom the gyfte is made is called donee. And lessour is properly where a man letteth to another certayne landes or tenementes for terme of lyfe, for terme of yeres, or to holde at wyll, he that maketh ꝑ lesse is called lessour, and he to whom ꝑ lease is made is called lesse, and euery one that hath estate in landes or tenementes for terme of hys owne lyfe, or for terme

of

Tenaunt for terme of peres Fo.xiii.
of another mans lyfe is called tenaunt of
freholde. And none of lesse estate maye
haue freholde, but they of greater estate
may haue freholde, for tenaunt in fee sim
ple hath freholde, and tenaunt in ꝑ tayle
hath also freholde.

¶ Tenant for terme of peres. Cap. bii.

TEnaunt for tme of peres is where
a man letteth landes or tenemẽtes
to another for terme of certayn pe
res after the nomber of peres that is ac-
corded betwene the lessour and the lesse,
and whan the lesse entreth by force of the
lesse, than is he tenaunt for terme of pe-
res, and yf the lessor in such case reserue
to him a perely rent vpon such lease, he
may chose for to distrayne for the rent in
the tenementes letten, or els he may take
an accyon of Dette for the arrerages a-
gaynst the lesse. But in such case it beho-
ueth that the lessoure be sealed in ꝑ same
tenementes at the tyme of hys lease, for
it is a good ple for the lesse to say that ꝑ
lessour had nothynge in the tenementes
at the tyme of the lesse except the lees be
made by dede indented in which case thã
such ple lyeth for the lesse to plede.

¶ And it is to vnderstande that in a lease
for terme of peres by dede or wout dede,
it nedeth no lyuere of seasen to be made
to the lesse, but he may enter whã soeuer
he

Where lyuere of seasō shalbe requyred and

where nat.

he wyll byforze of the same leafe. But of feoffementes made in the cõtre, or gyftes in the tayle, or leafe for terme of lyfe. In such cafes where freholde shal paffe, yf it be by dede or without dede, it behoueth to haue lyuere of feafon. ꝛc. But yf a man let landes or tenementes by dede or without dede for terme of yeres, the remaynder ouer to another for terme of lyfe, or in the tayle, or in fee, thã in fuche cafe it behoueth that the leffour make lyuere of feafon to the leffe for terme of yeres, or els there shal nothyng paffe to thẽ in the remaynder, though the leffe enter in the tenementes. And if the fermour in fuch cafe entre before any fuch lyuere of feafon made vnto him, than is ꝑ freholde and the reuercyon in the leffour. But yf he make any lyuere of feafon vnto ꝑ leffe thã it is freholde to them in the remaynder after the fourme of the graũtand wyll of the leffour.

¶ And yf a man wyll make a feoffement by dede or without dede of landes or tenementes that he hath in mo townesthã in one in one fhyre, yf the lyuere of feafõ be made in one parcell of the tenementes in one towne in the name of all it fuffyfeth for alꝑ other landes or tenementes comprehended in the fame feoffement in al other townesin the fame fhyre. But yf a man

a man make a dede of feoffement of landes or tenementes in dyuers shyres, ther it behoueth him to haue in euery shyre a liuere of seasen. And in suche case a man shall haue by the graunt of another fee symple, fee tayle, or freholde without liuere of seasen. As yf.ii. men be, & eche of them is sealed of a quantite of lande win one shyre & the one graunteth hys lande to the other in exchaunge for the lande þ the other hath, & in the same maner the other graunteth hys lande vnto the fyrste grauntour in exchaunge for the lande þ the fyrst grauntour hath. In this case eche may entre in the other landes so taken in exchaunge without any liuere of seasen And suche exchaunge made by wordes of tenementes within the same shyre without any wrytynge is good ynough. And yf the landes or tenementes be in diuers shyres that is to say yf that the one haue in one shyre, & the other hath in another shyre, it behoueth to haue a dede indented made betwene them of such exchaunge. exchãge

☞ And note that in exchaunge it behoueth that þ estat that both parties haue in the landes so exchaunged be egal. For yf the one wylleth and graunteth that þ other shall haue his lãde in the tayle, for the lande that he hath of the graunt of þ other in fee symple though that þ other In exchaũge þ estat ought to be egall.

is

is agreed to that, yet thys exchaunge is but voyde, for that þ estates be nat euyn.

☞ In the same maner it is where it is graunted and agreed betwene them that the one shal haue in þ one lãde fee tayle, and the other shal haue in the other lãde but terme of lyfe. Or yf one shall haue in the one lande fee tayle generall, and the other in the other lande fee tayle especyall. So alway it behoueth þ in exchaũge the estates of both partyes be euen, that is to say yf that one haue fee symple in þ one lande, that the other shal haue suche estate in the other lande, and yf the one hath fee tayle in the one lãde, than the other shal haue lykewyfe in the other lãde Et sic de aliis statib⁹. But it is nothyng to þ charge of the euen value of the landes, for though that the lãde of that one is much more in value than the lande of the other, this is nothyng to purpose, so that the estates made by the exchaũge be euen, and so in exchaunge be.ii. graũtes, for eyther part graũteth his lande to the other in exchaunge, and in eche of theyr grauntes mencyon shalbe made of the exchaunge.

An.9. E.4. Fo.41.

Of poſſeſſyon eſteſen

☞ And yf a man let lande to another for terme of yeres, though the leſſour dye before the leſſe entre into the tenementes yet may he entre into the tenementes aſter the

Tenaunt for terme of yeres. Fo. xb.

the death of the lessour: for that, that the lesse by force of the lease hath ryght incō tynent to haue the tenementes after the fourme of the lease. But yf a man make a dede of feoffement vnto another, and a let ter of attourney to a man to delyuer to him season by force of the same dede, yet yf the lyuere of season be nat made in the lyfe of him that made the dede, it auay leth not for that the other hath nomaner of ryght to haue the tenemētes after the purport of the dede before the lyuere of season. &c. And yf no lyuere be made, thā after the death of him that made the dede the ryght of such tenātes is continent in his heyre or in some other. Also yf the te nementes be let to a man for tme of halfe a yere, or for terme of a quarter of a yere &c. In such case yf the lesse make wast, the lessour shal haue agaynst hym a writ of Wast, and the writ shal say. Qui tenet ad terminū annorū. But he shal haue a spe cyal declaracion vpon the trouth of this matter, & the ple shall nat abate the writ for that, that he may haue no other writ vpon the matter. An. 7. H. 7. fo. 1.

Wast a gaynst tenaunt for terme of yeres. An. 14. H. 8. fo. 4. E. 4. Fo. 19.

¶ Tenaunt at wyll. Cap. viii.

Tenannt at wyll, is where lādes or tenementes be letten by a mā vnto another to haue & to holde to hym at the wyl of the lessour, by force of which lease

* with this agreeth. An.37. H.6. fo.38.

leafe the leffee is in poffeffyon. In fuche cafe the leffee is called tenaunt at wyll, for that he hath no certayne fure eftate, for the leffour may put him out at what tyme it pleferh him, yet yf the leffe lowe the lande & the leffour after the fowyng and before that his grayncs be rype putteth him out, yet fhal the leffee haue hys grayncs, and fhal haue fre egreffe and regreffe to repe and to carye hys grayncs, for that he wyft nat at what tyme his leffour wolde entre vpon him. Otherwyfe it is yf tenaunt for terme of yeres before the ende of his terme foweth the lande, & the terme is ended before that his grayncs be rype. In thiscafe the leffour or he in the reuercyon fhal haue the grayncs, for that the fermour knowe wel the certayne of his terme, and whan his terme fhulde be ended.

¶ Alfo yf an houfe be let to a mā to hold at wyll, byforce of whiche the leffee entreth into the houfe within which houfe he bryngeth his houfeholde ftuffe, & after the leffour putteth him out. Yet fhall he haue fre entre, egreffe and regreffe in the fame houfe by refonable tyme to carye his goodes and houfeholde ftuffe. And yf a man be feafed of a houfe in fee fymple, fe tayle, or for terme of lyfe, ? which hath certayn goodes win the fame houfe

and

and maketh his executours and diſceaſeth, whoſoeuer after his death hath the houſe, yet ſhal his executours haue fre entre, egreſſe and regreſſe to cary out of the houſe the goodes of theyr teſtatours by a reaſonable tyme.

Alſo yf a man make a dede of feoffement vnto another of certayne lāde, and delyuereth to him the dede but no lyuere of ſeyſyn. In this caſe he to whō the dede is made may entre into the lande, & holde and occupy it at the wyl of him that made the dede for that, that it is proued by the wordes of the dede, that it is his wyll yt the other ſhal haue the lāde. But he that made ye dede may put him out whā he wyl

Alſo yf a houſe be let, to holde at wyl, the leſſee is nat holden to ſuſteyne or repayre the houſe, as tenaunt for terme of yeres is holden to do. But yf the leſſee at wyl make volūtary waſt, as in pullynge downe of houſes, or in cuttynge or felynge of trees, it is ſayde that the leſſour ſhal haue for that agaynſt him an accyon of Treſpas, As yf I delyuer to a man my ſhepe to dunge or marle his lāde, or myn Oxen to eyze his lande, and he ſleeth my beaſtes. I may well haue an accion of Treſpas agaynſt him natwithſtādyng the delyuere. Loke an accyon of Treſpas Anno. 12. E. 4. Fo. 7.

* Waſt made by tenaunt at wyll, how he ſhalbe p̄uyſhed.

¶ Also yt the lessour vpon suche lease at wyll, reserue vnto him a yerely rent, he may distrayne for the rent behynde, or to haue for that an accyon of Dette at his owne chose. H. 6. R. 2. in Repleuin.

¶ Tenaunt by copy of court rolle. Cap. 17.

TEnaunt by Coppe of court rolle is as yt a man be seased of a maner w in which maner there is a custome and hath ben vsed tyme out of mynde, yt certayne tenauntes within the same maner haue vsed to haue landes or tenemẽtes to holde to them and to theyr heyres in fee symple, or in fee tayle, or for terme of lyfe. ꝛc. at the wyll of the lorde after ꝑ custome of the same maner And such a tenaunt may nat alyen the lande by dede for than the lorde may entre as in a thyng forfayt to him. But yt he wyll alyen hys lande to another, him behoueth aft some custome to surrendre the tenementes in some court. ꝛc. into the lordes handes to the vse of him that shal haue the estate in suche forme or to suche effect. Ad hanc curiam venit A. de B. et surlum reddidit in eadem cur̃ dnõ messuagium. ꝛc. in manꝰ domini ad vsum E. de A. et heredũ suorũ vel heredũ de corpore suo ex eunt vel pro termino vite sue. ꝛc. Et sup hoc venit pre dict E. de A. et cepit ne dño in eadem cur̃ messuagium

Forme of surrender in court baron.

messuagium predict. &c. habendum et tenendum sibi et heredibus suis, vel sibi & heredi de corpore suo exeuntibus vel sibi ad terminum vite sue, ad voluntatem dñi secundum consuetudinem manerii, faciendo, et reddendo inde reddit, debit seruic, consuetudinis inde prius debit & de iure consuet, et dat dño decime. &c. Et fecit domino fidelitatem. &c. That is to say A. of B. cometh vnto thys court, and surrendreth in the same court a mese. &c. into the handes of the lorde, to the vse of C. of A. & his heyres, or to the heyres of his body, or for terme of lyfe. &c. And vpon that cometh the forsayd C. of A. and taketh of the lorde of the same court the forsayde mese. &c. to haue & to holde to him and to his heyres, or to him & to his heyres of his body, or to him for terme of lyfe at the lordes will after custome of the maner, to do & pelde therfore rentes, dettes, seruices, & custōes therof before due and accustomed. &c. and gyueth the lorde for a fyne. &c. and maketh vnto the lorde his fealte. &c. And suche tenauntes be called tenauntes by Copy of court rolle, for that they haue none other euidence concernynge theyr tenementes but the Copyes of the court rolles, and suche tenauntes shal nat impleade nor be impleded of their tenementes by the kynges writ but

Forme of plait

pf they

yf they wyl implede other for they? tene mentes, they shall haue a playnt made in the court of the lorde in suche fourme or to suche effect. A. de B queritur vers? C. de D. de placito terre, vide licet de vno messuagio quadraginta acris terre quatuor acris prati. &c. cum pertin. Et facit p testationē seque querelam istā in natura breuis dñi regis assise mortis antecessoris ad cōmunem legem, vel breuis dñi regis assise Nouel disseisine ad cōmunem legem. That is to say A. of B. cōplayneth agaynst C. D. of a pce of lande that is for to say of a mese, and. xl. acres of lāde. iiii. acres medowe. &c. with the appurtenaūces and maketh protestacyon to sue hys playnt in nature of the kynges writ of Assise of the death of his antecessour at ꝑ comon lawe, or by writ of our soueregne lorde the kynge of assyse of Nouel disseisine at the comon lawe, or in nature of some other writ. &c. pleges and proces F B. And though that some. uche tenaūtes haue inheritaunce after the custō me and maner, yet they haue none estate but at the lordes wyl and after the course of the comon lawe. For it is sayd yf ꝑ lorde put them out; they haue none other reme dy but to sue vnto the lorde by petition. For yf they had any other remedye, they shulde nat be sayd tenauntes at ꝑ lordes wyll

*What remedy a tenaūt of cus me shall

wyll, after the custome of the maner, but the lorde wyl nat byeke the custome that is resonable in suche cases. But Bryan cheke Justyce sayth, that his opynion alwayes hath ben and alwayes shalbe, yf such a tenaunt by custome (payenge hys serupces) be cast out by the lorde he shall haue an accyon of Trespas agaynst him H. 21. E 4. And lykewyse was the opinio of Wandy cheke Justice. M. 7. E. 4. for he sayth that the tenaunt by custome is aswell enheryte to haue his lande after the custome aswel as he that hath franktenement by the comon lawe. haue accyon agaynst his lorde

☞ Tenauntes by the yarde be in suche nature as tenātes by Copy of court rolle But the cause for which they be called tenauntes by the rodde or yarde, is for that whan they wyl surrendre theyr tenemētes into the lordes hande to the vse of another, they shall haue a lytell yarde or rodde, by the custome & vse in their handes whiche they shall delyuer vnto the Stewarde or baylyfe, after the custome & vse of the maner. And he that shal haue the lande shal take the same lande in the court, and his takynge shalbe entred in ꝑ rolle. And ꝑ Stewarde or baylyfe accordynge to the custome shall delyuer vnto him that taketh the lande the same yarde or another yarde in the name of seysyn. Tenauntes by ꝑ yarde.

And for this cause they be called tenauntes by ꝑ yarde. But they haue none other euydence but Copy of the court rolle.

Surrender made without the court.

☞ And also in dyuers lordshyps & maners there is suche custome, ꝑt suche a tenaunt that holdeth by the custome wyll alyen his landes or tenementes, he may surrendre his landes vnto the baylyfe or to the reue, or to two sad mē of the same lordshyp, to the vse of him that shal haue the lande, to haue in fee symple, fee tayle or for terme of lyfe. &c. And al that shall they present at the next court. And than he shall haue the lande by Copy of court rolle, shall haue the same lande after the entent of ꝑ surrendre. And so it is to wete that in dyuers lordshyps and dyuers maners there be made dyuers customes in

Of customes.

suche case, as to take tenauntes and as to plede, & as touchyng other thynges and customes to be done, and all that is nat a gaynst reason may well be admytted and alowed. And suche tenauntes that holde after the custome of a feygnory, or after the custom of a maner, though they haue estate of inherytaunce after the custome of the lordshyp or of the maner, yet because they haue nat any freholde by the court of the comon lawe, they be called tenauntes by base tenure.

Dyuersyte.

☞ And dyuers dyuersytes there be be-

twene

ewene a tenaunt at wyll whiche is in by the lesse of his lessour by the cours of ꝑ comon lawe, and tenaunt after the custõe and maner in the forme aforesayd. For tenaũt at wyll after the custome may haue estate of inheritaunce as it is aforesayd at the lordes wyll after the custome and vsage of maner. But yf a man haue landes or tenemeutes which be nat within suche maner or lordshyp where such custome hath ben vsed in the forme aforesayd, & wyll let such landes or tenementes to another, to haue & to holde to him & to his heyres at the wyll of his lessour these wordes to the heyres of the lesse be voyde for this is the cause yt the lesse dye and his heyre entreth, the lessour shall haue a good accyon of Trespas agaynst him, but nat so agaynst the heyre of tenaunt by the custome. &c. in any case, for that the custõe of the maner in some case may helpe him to bar his lorde in any accyon of Trespas.

Where tenaunt at wyll hath enheritãce & where nat.

☞ Also tenaunt by the custome in some places ought to repayre and sustayne the houses, & the other tenant at wyll ought nat. Also one by ꝑ custome shal do fealte, and the other nat. And dyuers other dyuersytes there be betwene them.

☞ Thus endeth the fyrst boke. And here foloweth the seconde boke.

Homage is the moſt honorable ſeruyce & moſt hũble ſeruyce of reuerence, that a franktenaunt may do to his lorde. For whan the tenaunt ſhall make homage to his lorde, he ſhal diſcende & hys heade bncouered, and his lorde ſhal ſet, and the tenaũt ſhal knele before him on both his knes, and holde his handes ioyntly togyther betwene the handes of his lorde, & ſhal ſay thus. I become your man from this day forwarde of lyfe and lym and of erthly worſhyp, and bnto you ſhalbe true and faythfull, & bere you fayth of the tenementes that I clayme to holde of you, ſaupnge the fayth that I owe bnto oure ſoueraygne lorde the kynge. And than the lorde ſo ſyttynge ſhal kyſſe him.

The manerhow homage ſhalbe made.

¶ But yf an Abbot or a pryour or any other man of relygion, ſhal make homage bnto his lorde, he ſhal nat ſay: I become your man, for that he hath profeſſed him ſelfe only to be godes man. But he ſhall ſay thus. I do you homage & bnto you ſhalbe true & faythful, and bere you fayth for ꝑ tenementes that I clayme to holde of you, ſaupnge the fayth that I owe bnto our ſoueraygne lorde the kynge.

The homage of a relygious perſon.

¶ Alſo yf a woman ſole ſhall make homage bnto her lorde. She ſhal nat ſay I become

The homade of a wyfe.

become your woman. For that is nat cō-
uenient for a woman to say that she shall
become the woman to any but onely to
her husbande whan she is wedded. But
she shal say, I make vnto you homage, &
vnto you shalbe true and faythfull & shall
bere you fayth of the tenementes that I
holde of you, sauyng ỳ fayth that I owe
vnto our souerayne lorde the kynge.

¶ But yf a man haue seuerall tenancyes
which he holdeth of seuerall lordes, that
is to say euery tenaunce by homage, thā
whā he maketh homage vnto one of hys
lordes he shal say inỳ ende of his homage
Sauynge the fayth that I owe vnto the
kynge and vnto my other lordes.

Homage whā a man holdeth of dyuers lordes

☞ And note well that nōe shal make ho
mage, but such as hath estate in fee symple
or in fe tayle in his owne ryght or in
another mans ryght. For it is a grounde
in the lawe, that he yt hath estate but for
terme of lyfe, shal make nōe homage nor
take none homage. For yf a woman haue
landes or tenementes in fee symple or in
fee tayle whiche she holdeth of her lorde
by homage & taketh an husbande & hath
yssue, than the husbande in the lyfe of ỳ
wyfe shal make homage, for that he hath
tytle to haue the lande by the curtesy yt
he suruyue his wyfe. And also he holdeth
in the ryght of his wyfe. But afore yssue

Marke. F.8. F.4. Fo.28.

betwene them, the homage shalbe made in both theyr names. But yf the wyfe desceasе before homage made by the husbād in the wyues lyfe, and the husbande holdeth him selfe in as tenaunt by the courtesy, he shall make no homage vnto his lordes, for that he hath than none estate but for terme of lyfe. More shalbe sayd of homage in the tenure of homage Auncestrell.

¶ For fealte. Cap. ii.

Fealte is as much to say as fidelitas in latin, & whan a franktenaunt shal make Fealte vnto the lorde, he shall holde his ryght hande vpon a boke and shal say thus. ☞ Here you this my lorde that I vnto you shalbe faythful & true, & bere you fayth of the lādes or tenemētes that I clayme to holde of you, & truly to you shall do the customes and seruyces ẏ I ought to do vnto you at termes assygned, as God me helpe & all his sayntes, & than he kysseth the boke But he shal nat knele whā he maketh his fealte, nor shal make such humble reuerence as is afore sayd in homage. And great dyūsyte there is had betwene makynge of fealte and of homage. For homage may nat be made but to the lorde him selfe. But the Stewarde of the lordes court or the baylyfe may take fealte of the lorde.

The manerhow Fealte. shalbe made.

Diuersyte betwene homage & fealte

Also

¶ Also tenaunt for terme of lyfe shall make fealte, & yet he shal make none homage. And dyuers other diuersites there be betweene homage and fealte.

¶ Also a man may se a good note. An.15. E.3. where and howe a man, and howe a man & his wyfe made homage and fealte in the comon banke, which is wrytte in such forme. Note that Johñ Lewkenor and Elsabeth his wyfe, made homage vn to Wyllyam Thorpe in thismaner. The one and the other helde toyntly theyr hãdes betweene the handes of Wyllyam Thorpe and the husbande sayd in thys wyse. We vnto you make homage & bere you fayth for the landes that we holde of A. your Conusour which hath graunted you our seruyces in B. and in C. and the other townes. &c. agaynst al men, sauyng the fayth that we owe to our soueraygne lorde the kynge & to his heyres & to our other lordes, and the one and the other kyssed him. And after they made fealte, & the one and the other helde theyr hãdes togyther vpon a boke, and the husbande sayd the wordes and both kyssed ỹ boke. More shalbe sayd of Fealte in tenure of Socage and in that tenure of Frankealmayne, and in the tenure of homage Auncestrell.

¶ Elcuage. Cap.iii.

Elcuage

Escuage is called in latin Scutagiū that is to say seruyce of shelde. And suche a tenaunt that holdeth his lāde by Escuage, holdeth by knyghtes seruyce. And also it is comenly sayd yᵗ some hold by a fe of knyghtes seruyce, and some by the halfe fee of knyghtes seruice. &c. And it is sayde that whan the kynge maketh a voyage royal into Scotlāde for to subduc the Scottes, he that holdeth by a fee of knyghtꝭ seruyce, behoueth to be with the kynge by. xl. dayswell and couenably arayed for the warre. And lykewyse he þ holdeth his lande by the halfe of a fee by knyghtes seruyce, ought to be with the kynge by. xx. dayes. And he that holdeth his lande by the fourth parte of a fee by knyghtes seruyce, him behoueth to be w the kynge by. x. dayes. And so after þ quātite, he that hath moze to do moze and he that hath lesse, to do lesse. But it appereth by the plees and argumentes made in good plee vpon a wryt of Detinue of an obligacion brought by one Henrye Gray. Anno. 7. E. 3. That it nedeth nat to him that holdeth by Escuage to go hym selfe yf he wyll fynde an able person for the warre couenably arayed for the war to go with the kyng, & that semeth good reasō. For it may be that he that holdeth by suche seruyce is sycke, in such wyse þ he may nat go noz ryde.

An. 7. E. 3. fo. 53.

*For what cause he that holdeth for

¶And also an abbot or any other man of religion or a woma sole that holdeth by suche seruyce, ought nat in suche case to go in proper person. And by Mylyam Herle that tyme chefe Justyce of the comon place, sayd in the sayd ple that Escuage shall nat be graunted but where the kynge him selfe goeth in proper person. And so it abode in iudgemēt in the same ple, yf these.xl dayes shalbe accōpted frō the day of the mustre of the kynges host, made by the comons and of the kynges cōmaundement. Or els from the day that the kynge fyrst entreth into Scotlande. &c. therfore inquere of this matter.

escuage may ride a man to dolee uyce by him.

Howe the.xl. dayes shalbe accomted.

¶And after suche voyage into Scotlāde it is comenly sayd, that by the auctorite of parlyament the Escuage shalbe set and put in certayne, þ is for to say a certayne sum of money, how much euery one that holdeth by a hole fee of knyghtes seruyce which was nat in his owne pper person nor none other for him with the kynge, shal pay vnto the lorde of whom he holdeth his lande by Escuage. As put case þ it was ordeyned by auctorite of parlyament, that euery one þ holdeth by a hole fee by knyghtes seruyce which was nat with the kyng, shal pay to his lorde. xl. s. Than he that holdeth by the halfe of a fee of a knyghtes seruyce shall pay vnto hys

lorde

Dyuersyte of escuage

lorde but.xx.s. and so who more more, & who lesse lesse. And some tenauntes holde that yᵗ Escuage comme by auctorite of parlyament to any some of money, that they shal pay but the halfe of that somme, and some but the fourth part of that somme. But bycause the Escuage that they shall pay is nat certayne for that it is at no certayne what the parlyament wyll assesse ꝑ Escuage they holde by knyghtes seruice But otherwyse it is of Escuage certayn, of which shalbe spoken of in the tenure of Socage.

The comen speche of escuage

¶And yf a man speake generally of Escuage, it shalbe vnderstande by the comō speche of escuage nat certayne whiche is knyghtes seruyce. And such Escuage draweth vnto him homage, & homage draweth vnto him fealte, for fealte is incydent to euery maner of seruyce, but to yᵗ tenure of Franke almoygne as it shalbe sayd hereafter in tenure of Frankalmoygne. So as he that holdeth by Escuage holdeth by Homage, Fealte & Escuage.

Marle.

☞And it is to be vnderstande that whā Escuage is so sessed by auctorite of parlyament, euery lorde of whom the lande is holden by Escuage shall haue ꝑ Escuage so sessed by the parlyament, bycause it is vnderstande by the lawe that at the begynnynge such tenementes were gyuē

by

by the lordes to holde by suche seruyces to defende theyr lordes aswell as ꝑ kyng and to set in quiet and rest theyr lordes & the kynge of the Scottes afore sayd. And for that suche tenementes fyrst of the lordes, it is a reason that they haue the Escuage of theyr tenementes.

Distres for escuage.

¶ And the lordes in suche case may dystreyne for the escuage so assessed, or they may haue the kynges wryttes dyrect vnto the Shyryffes of ꝑ shyres to leuy such Escuage for them as it appereth by the Regyster. fo 88.

¶ What of suche tenauntes that holde of the kynge by escuage, which were nat wt the kynge in Scotlande, the kynge hym selfe shal haue the Escuage.

Item in suche case afore sayd, where the kynge maketh a voyage royall into Scotlande, and the escuage is assessed by the parlyamẽt, yf the lorde distrayne his tenaunt that holdeth of hym by scruyce of a hole knyghtes fee for escuage so assessed. &c. And the tenaunt pleadeth & wyll auerre that he was with the kynge in Scotlande. &c. by. xl. dayes, and the lorde wyll auerre the contrary, it is sayd that it shalbe tryed by the certyfycacion of ye Constable of the kynges hoste in wryte kynge vnder his seale which shalbe sent to the Justyces. Tryall.

Homage

Homage, Fealte, & Escuage. Cap. xiii.

Tenure by Homage, Fealte & Escuage, is to holde by knyghtes seruice and it dzaweth vnto him, Warde, Marpage, and Relefe. Foz whan suche a tenaunt dyeth, his heyze male beynge within age of. xxi. yere, the lozde shal haue the lande holden of him vntyl the age of the heyze of. xxi. yere, which is called playne oz full age, foz that such an heyze by the vnderstandynge of the lawe, is nat able to do knyghtes seruyce before the age of xxi. yere.

Warde.

And also yf suche an heyze be nat maryed at the tyme of the death of his auncestre, than the lozde shal haue the warde and marpage of him. But yf such a tenaũt dye, his heyze female beynge of the age of. xiiii. yere oz moze, than the lozde shall nat haue the warde nother of the lande noz of the body, foz that a woman of such age may haue a husbande able to do knyghtes seruyce. But yf suche an heyze female be within the age of. xiiii. yere and nat maryed at the tyme of the deth of her auncestre, than the lozde shal haue ỹ ward of the lande holdẽ of him tyll age of such an heyze female of. xbi. yere. Foz that it is gyuen by ỹ statute of Westm. i. Cap. 22. that by two yere next folowynge ỹ sayd xiiii. yere, the lozde may tender a conuenyent marpage without vpperagynge of

The ful age of a woman An. 35. H. 6. Fo. 31.

suche

ſuche an heyre female. And yf the lorde do nat tender her ſuche marpage within the ſayd.ii.pere, than ſhe at the ende of ỹ ſayd.ii.pere may entre & put out the lord But yf ſuche an heyre female be maryed within the age of.xiiii.pere in the lyke of the auncetter, and the auncetter dye ſhe beynge within the age of.xiiii.pere, the lorde ſhal haue but the warde of ỹ lande tyll the ende of.xiiii. pere of age of ſuch an heyre female. And than her huſbande and ſhe may entre into the lande and put out the lorde, for thys is out of the caſe of the ſtatute. In ſo much that the lorde can nat tendre marpage to her that is maryed. &c. For before the ſayde ſtatute of Weſtm.1 ſuch iſſue female that was within the age of .xiiii. pere at the tyme of the death of her auceſter, & after that ſhe had accomplyſhed the age of.xiiii.pere with out any tendre of marpage to her by the lorde, ſuche an heyre female than myght entre into the lande and put out the lorde as it appereth by the reherſal and by the wordes of the ſame eſtatute. So that the ſayd ſtatute was made in ſuch caſe al for the auauntage of the lorde as it ſemeth. But yet that at all tymes is vnderſtande by the wordes of the ſame eſtatute, that the lorde ſhal nat haue the.ii.peres after the.xiiii pere as it is afore ſayd.

☞ And note well that the full age of an heyre male and female after the comon speche, is sayd the age of.xxi. And the age of discrecion is sayd þ age of.xiiii. yere for a chylde at suche age whiche is wedded within suche age to a woman may agre to the mariage, or disagre.

* The lord shal haue but ons the mariage of his warde.

¶ And yf the wardeyn in Chyualry mary ones his warde within the age of.14. yere, and after þ age of.xiiii. yere he disagreeth to that mariage. It is sayde by some folke that the chylde is nat holde by the lawe to be maryed another tyme by his wardeyn, for that the Wardeyne had ones the mariage of him, & therfore he was out of his warde, as concernyng the warde of his body. And whan he had ones the mariage of hym, and therfore was out of hys warde, he shall no more haue the mariage of him. In the same maner it is yf the wardeyne mary him, & the wyfe dye, the chylde beynge within age of.xiiii. yere, or.xxi. yeres. And that the chylde may disagre to such mariage whan he come to the age of.xiiii. yere, it is proued by the wordes of the statute of Marton. Capi. 6. that sayth thus. De dominis qui maritauerint illos quos habent in custodia sua villanis et aliis sicut burgences vbi disparagentur, si tales homines fuerint infra. xiiii. annos et

tatis etatis qui matrimonio cõſentire nõ poſſint, tunc ſi parentes illius conquerãtur, dominis ille amittat cuſtodiã illam vſq; ad etatem heredis. Et omne cõmodum q̃ inde receptum fuerit conuertatur in cõmodum heredis infra etatem exiſtẽtis ſecũdum diſpoſicionẽ parẽtum ꝓpter dedecus ei impoſitum. Si autem fuerit. xiiii. annozum et vltra qua conſentire poterit, et tali maritagio conſenſerit, nulla ſequatur pena. And ſo it is p̃oued by the ſame ſtatut, that no diſperage ſhalbe, but where that he hath the warde maryeth him within the age of xiiii. yere.

¶ Alſo it hath ben a queſtyon how theſe wozdes ſhulde be vnderſtande. Si parentes conquerrantur. ꝛc. And it ſemethvnto ſomme that conſyderynge the ſtatute of Magna Carta. Capi. 6. that wylleth that heredes maritent abſq; diſperatione. ꝛc. Upon whiche this ſayd ſtatute of Marton vpon this poynt is grounded as it ſemeth, and in ſomuche that it was neuer ſene that any accyon was bzought vpon the ſtatute of Marton foz ſuche diſperagynge agaynſt the wardeyne, and yf any accyon may be taken vpon ſuche matter it ſhalbe taken by cõmune p̃eſumpcyon before thys tyme, oz at ſome tyme to be put in bze, that theſe wozdes ſhalbe vnderſtande in ſuche maner? Si parentes A queſtyon.

The exposiciō of these wordes. Si parentes conquerantur.

conquerantur. i. si parentes inter se lamentantur, whiche is as muche to say that yf the cosyns of suche a chylde haue cause to make lamentacion & cōplaynt amonge them for the shame done to theyr Cosyn so disperaged. which is in maner a shame to them all, than may the next Cosyn to whom the herytage may nat discende, entre and put out the wardeyn in chyualry And yf he wyll nat, another cosyn of the chyldes may do it, & he to take the yssues and profytes vnto the vse of the chylde, and of that yelde accōpt whan he cōmeth vnto his full age. Or els the chylde with in age may entre him selfe and put out ẏ wardeyn. &c. Sed quere de hoc.

Also there is many other dyuers disperagynges, which be nat specifyed in ẏ same statute. As yf the heyre ẏ is in ward be maryed vnto one yt hath but one fote, or one hande or is deformed or lame, or hauyng an horryble diseace, or els a gret and contynual infyrmyte, or yf the heyre male be maryed to a woman passed chyldberynge. And many other causes of disperagynge, there be, but inquyre for it is good matter to lerne. And of heyres males that be within age of. xxi. yere after ẏ death of theyr auncestres vnmaryed. In suche case the lorde shall haue the maryage of such an heyre, and haue space and

Inq̄re.

tyme

tyme to tēder to him couenable maryage without disperagynge within the same tyme of.xxi.yere.

And it is to wytte that the heyre in such case may chose yf he wyl be maryed or no. But yf the lorde whiche is called wardeyn in chiualry, tender a couenable maryage to suche an heyre within ẏ age of.xxi.yere without disperagynge, and ẏ heyre refuse & mary nat hym self within the same age. Than ẏ sayd wardeyn shal haue the balue of the maryage of such an heyre. But yf suche an heyre male marye him selfe within the age of.xxi. yere, agaynst the wyll of the wardeyn in Chyualry. Than shal the wardeyn haue double the balue of that maryage by ẏ force of the statute of Marton aforesayd, as in the same statute is more fully cōprysed.

If the warde refuse the maryage he shall paye.

Also dyuers tenantes holde of theyr lordes by knyghtes seruyce, and yet they holde nat by Escuage nor pay no Escuage as they that holde theyr landes by Castell warde, that is to saye to kepe a Tower of a castel or a gat, or some other place by reasonable warnyng whā theyr lordes here tell that enemyes wyll come or be come into Englande. And in many other cases a man may holde by knyghtē seruyce and yet he holdeth nat by Escuage nor payeth no escuage as shalbe sayd

Castell warde.

in the tenure of graunde Sergeauntye. But in all cases where a man holdeth by knyghtes seruyces, suche seruyces draweth to the lorde, warde, and maryage. And yf a tenaũt that holdeth of his lorde by seruyce of a hole knyghtes fe dye, his heyre beynge at ẏ ful age of.xxi.yere hys heyre shal paye vnto his lorde.C.s̃.for a relefe, and he that holdeth by the halfe fee shla pay.l.s̃.

Also yf a man holde hys lande of hys lorde by the seruyce of.ii.knyghtes fees than the heyre at full age at the tyme of the death of his auncestre shal pay to his lorde.x.li.for relefe.

Also yf there be grandfather, mother and sonne, and the mother dyeth lyuyng the father of the sonne, & after the graũd father which hylde his lande by knyghtẽ seruyce dyeth seysed and the lande dyscẽdeth to the sonne of the mother, as heyre to the grandfather which is within age In suche case the lorde shal haue ẏ warde of the lãde, but nat the warde of ẏ heyre For that none shalbe in warde of his body lyuynge his father, bycause the father durynge his lyfe shall haue the maryage of his heyre apparaũt and nat the lorde. Otherwyse it is yf the father be dead lyuynge the mother, where the lãde holdẽ in Chyualry dyscendeth to the sonne on the fathers syde. &c.

Lyuing the father the son shal nat be vnder gouernaunce of any other.

¶ Also if a man be seysed of lande whiche is holden by knyghtes seruyce and maketh feoffement in fee to his vse, & dyed seysed to the vse of his heyre within age and no wyll by hym declared, the lorde shall haue a wryt of ryght, of the body & the lande, lykewyse yf the tenaunt had dyed seysed of the demesne. And yf the heyre be of full age at the death of his ancestre, in such a case he shall pay reliefe, lykewyse yf he had ben seased of the demesne and that isby ỹ statute. An. 4. H. 7. Capi. 17.

☞ Also there is a wardeyn in ryght chyualry, & wardeyn in dede in chyualrye. Wardeyn in ryght chyualry, is where ỹ lorde bycause of his lordshyp is seased of the warde of the lande and the heyre, bt supra. Wardeyn in dede in chyualrye, is where the lorde in such case after his seysyn graunteth by dede or without dede ỹ warde of the lande, or of the heyre, or of both to another man, by force of whiche graunt the graunte is in possessyon, thā is the graūte called wardeyn in dede. &c.

¶ Tenure in Socage. Cap. b.

TEnure in Socage is where the tenaunt holdeth of his lorde hys tenaunty by certayne seruyce for all maner of seruyce, so that the seruyce be nat knyghtes seruyce. And where a man

holde

holdeth his lande of his lorde by fealte & certayne rent for all maner of ſeruyce, or els where a man holdeth his lãde by homage fealte, & certayne rent for al maner of ſeruyces, for homage by him ſelfe maketh nat knyghtes ſeruyce.

☞Alſo a mã may holde of his lorde one ly by fealte, and ſuche tenure is tenure in Socage for euery tenure ꝑ is nat tenure in chyualry, is tenure in Socage. And it is ſayd that the cauſe wherfore ſuch tenure is ſayd and hath the name of tenure in Socage is thus. Quia hoc ſocagiũ idẽ eſt q̃ ſeruiciũ ſoce. Et hec ſoca ſoce idẽ q̃ caruca. s. one ſoke or one ploweth lande. And in olde tyme before the lamytacyon of tyme out of mynde great part of the tenauntes that helde of theyr lordes by Socage, ought to come with theyr plowes euery of the ſayd tenauntes by certayne dayes in the yere, to eyre & ſowe the lordes landes of his owne grayues. But for that ſuche workes were done for the lyuelode & ſuſtenaũce of theyr lordes, they were acquyted agaynſt theyr lorde of all maner of ſeruyces. And for this that ſuch ſeruyce was done ỽ theyr plowes ſuche tenure was called tenure in Socage. And after that ſuche ſeruice were chaũged in dyuers other maner ſeruyce by conſent of the tenauntes & by the deſyre of theyr

lordes

lordes, that is to say into a yerely rēt. &c. But yet the name of Socage abydeth, & in dyuers places tenauntes yet do suche seruyce with theyr plowes vnto theyr lordes, so that all maner of seruyces that be nat tenures by knyghtes seruyce ben called tenures in Socage. A rule.

¶ Also yf a man holde of his lorde by Escuage certayne. That is to say in suche fourme that whan escuage ronneth and is assessed by the Parlyament to a more somme or to a lesse sōme that the tenaūt shal pay to his lorde but half a marke for escuage & neyther more ne lesse, to howe great sōme or lytle that the escuage ronneth, in this case bycause the escuage in cercayne before that any escuage is assessed. &c. Such tenure is tenure in Socage and nat knyghtes seruyce. But where ẏ sōme that the tenaūt shal pay for escuage is nat certayne, that is to saye, where it may be that the sōme that the tenaūt shal pay for escuage, may be atone tyme more and another lesse after that it is assessed. &c. Than suche tenure is tenure by knyghtes seruyce.

¶ Also yf a man holde hys lāde for to pay certayne rēt to his lord for castel warde, suche tenure is tenure in Socage. But where the tenaunt selfe ought by him or by another to make castell warde such is tenure by knyghtes seruyce. * Another dyfference.

Rente ſeruyce.

☞Alſo in all caſes where the tenaunt holdeth of hys lorde to paye to him any certayn rent, ꝑ rent is called rēt ſeruyce.

¶Alſo in ſuche tenure in Socage yf the tenaunt haue iſſue & dye, his iſſue beyng within the age of.xiiii.yere, than ꝑ next frende of the heyre to whō the heryttage may nat diſcende, ſhal haue the warde of the lande and of the heyre, vnto the age of the heyre of.xiiii.yere, and ſuche wardeyne is called wardeyn in Socage. For yf lande diſcende to the heyre by the father ſyde, than the mother or ſome other nyghe coſyn ōf the mother ſyde ſhal haue the warde. And yf lande diſcende to the heyre by the mother ſyde, than the father or the next frende of the father ſyde ſhal haue the warde of ſuch lādes or tenemētes. And whan the heyre commeth to the age of.xiiii.yere complet, he may entre and put out his wardeyn in Socage & occupye the lande him ſelfe yf he wyl. And ſuche wardeyne in Socage ſhal take no yſſues or profytes of ſuch landes or tenementes to his owne vſe, but onely to the vſe and profite of the heyre, & of that ſhal yelde accompt what it pleaſeth the heyre after that the heyre hath accomplyſhed the age of.14.yere. But ſuch a wardeyne vpon ſuche accompt ſhal haue alowaūce of all his reſonable coſtes and eppences

* The nereſt frende.

The gouernor ſhalgiue accōpt.

of all

of all thynges. And yf suche a wardeyne marye the heyre within age of.xiiii.yere, he shall make accompt to the heyre or to his executours of the value of the maryage, though he toke nothynge for the value of the maryage, for that it shalbe erected his owne folye, that he wolde marye him without takyng the value of the mariage, without he marye him to such a maryage that is worthy in value as much as the maryage of the heyre. &c. Also yf any other man that is nat a nyghe frende. &c. occupy the landes and tenementes of the heyre as wardeyne in Socage, he shalbe compelled to yelde accompt vnto the heyre as well as his next frende. For it is no plee for him in a writ of accompt to say that he is nat his nyghe frende. &c. But he shal answere whether he occuppeth ỳ landes or tenementes, as wardeyn in Socage or nat. But inquere yf after that the heyre haue accomplysshed the age of.14. yere, and the wardeyn in Socage contynually occuppeth the lande tyl the heyre cometh to full age of.xxi. yere yf ỳ heyre at his full age shal haue an accyon of accompt agaynst the wardeyn of ỳ tyme yt he hath occuppedafter the sayd.14. yeres, as agaynst his wardeyn in Socage, or agaynst him as agaynst his baylyfe.

An other gouernour.

¶ Also yf the wardeyn in chyualry make his

his executours, and the heyre beynge w in age. &c. the executours shall haue the warde durynge the nonage. But yf the wardeyn in Socage make executours & dye, the heyre beynge within the age of xiiii. yere, his executours shal nat haue ẏ warde, but another nygh frende to whō the herytage may nat dyscende shal haue the warde. And the cause of dyuersyte is for that the wardeyne in chyualry hath the warde to his proper vse, and the wardeyne in Socage hath nat the warde to his owne vse but to the vse of the heyre. And in suche case where the wardeyn in Socage dyeth before such accompt made by him, the heyre is of that without remedy, for that no wryt of Accompt lyeth agaynst the executours, but onely for the kynge. Also the lorde of whom the lande is holden in Socage after the deth of his tenaunt shal haue relefe in such fourme. If the tenaunt holde by fealte & certayn rent to pay yerely. &c. If the termes or paymēt be to pay by. ii. termes of the yere or by. iiii. termes of ẏ yere, the lorde shal haue of the heyre of his tenaunt, asmuch as the rent amounteth that he shulde pay by yere. As yf the tenaunt helde of the lorde by fealte, and. x. s̄. of ẏ rent payable at certayne termes of the yere, than the heyre shall pay to the lorde. x. s̄. for relefe

A notable dysference.

* The prerogatiue of ẏ kynge.

Relyefe ī tenure of Socage.

aboue

aboue this.x.s̄.that he shal pay for ẏ rent Loke more in the statut of Anno.19.H.7. Cap.15. And in such case after the deathe of the tenant, such relefe is due to ẏ lorde incōtynent of what age soeuer the heyre be, for that such a lorde may nat haue the warde of the bodye, nor the lande of the heyre. And the lorde in suche case ought nat to abyde the payment of his relefe after the termes & dayes of payment of the rent, but he ought to haue hys relefe incontynent. And therfore he may incōtynent dystrayn after ẏ death of his tenaūt for the relefe. In the same maner it is where a tenaunt holdeth of his lorde by fealte, & by a poūde of comyn, or a poūde of peper by the yere, and the tenaunt dye the lorde shal haue for his relefe a poūde of Comyn or a pounde of Peper.

☞ In the same maner it is where the tenaunt holdeth to pay by yere a certayne nombre of Capons or Hennes, or a payre of gloues, or certayne busshels of whete and suche other maner thynge. But in some case the lorde ought to abyde to distrayne for his relefe tyl a certayne tyme As yf the tenaunt holde of his lorde by a rose or by a busshel of roses to pay at the feast of faynt Johan baptyst. If suche a tenaūt dye in wynter, thā the lorde may nat dystrayne for his relefe. & c. vntyl the tyme

Whan the lord shal dystrayn ī cōtynēt & whan he ough to tary.

tyme that the roses by the coursof ẏ yere may haue theyr growynges. &c. Et sic de similibus. Also yf any parauenture wyll aske why a mā may nat holde of his lorde by fealte only for al maner of seruyces in so much whan the tenaunt shal make his fealte he shall swere to hys lorde that he shal do all seruyce due, and whan he hath made fealte in such case, there is none other seruyce due. To this may be sayd ẏ where the tenaunt holdeth his lande of his lorde, it behoueth that he ought to do to his lorde some maner of seruyce, for yf the tenaunt nor hys heyres ought to do no maner of seruyce to hys lorde nor to his heyres, than by longe tyme cōtynued it shulde be out of remēbraunce of whō the lande was holden, of the lorde or of his heyre or nat, and than more ofter and more soner wyll men say that the lāde is nat holdē of the lorde nor his heyres thā otherwyse, and vpon this the lorde shall lose his eschet of the lāde, or ꝑcase other forfayture or profite that he myght haue of the lande. So it is reason that ẏ lorde and his heyres haue somme seruyce done vnto him for a prose & a wytnes that the lande is holden in franke Almoygne as shalbe sayd in frāke Almoygne, & bycause that the lorde wyl nat at the begynnyng of the tenure haue any other seruyce but fealte,

A q̄styō.

answer

Where fore fayth is gyuen.

A rule.

fealte, it is reason that a man may holde of his lordes onely by fealte, and whan he hath made his fealte he hath done all his seruyce.

¶Also yf a man let to another certayne landes or tenementes for terme of lyfe without speakynge of any thynge to yelde to the lessours, yet he shall do to the lessour fealte, for that he holdeth of him. Also yf a lease be made to a man for terme of yeres, it is sayd the lessee shal do to ỳ lessour fealte, for ỳ he holdeth of him. And thys is proued well by ỳ wordes in a writ of wast whā ỳ lessour hath caused to bryng a writ of Wast agaynst him, the whiche writ shall say that the lessee holdeth the tenementes of the lessour for terme of yeres. So ỳ writ proueth a tenure betwene them. &c. But he that is tenaunt at wyll after the course of the comon lawe shall nat make fealte bycause he hathe no maner of sure estate. But otherwyse it is of tenaunt after the custome of the maner, bycause that he is bounde to do fealte to his lorde for two causes, one is bycause of custome, the other is bycause he for ỳ taketh his estate in suche fourme to do fealte.

* The fourme of a writ of Waste.

¶Franke almoygne Cap.vi.

Tenure

The beginyng of the fyrst gyft in free almes.

Tenure in Frãke almoygne is where an abbot or pryour, or another mã of relygion or of holy church holdeth of his lorde in franke Almoygne, that isto say in latin. In liberam elemosinam that is to say in free almes. And suche tenure beganne fyrst in olde tyme in suche forme. Whan a man in olde tyme was seysed of lãdes or tenemẽtes in his demesne as of fee, and of the same lande enfeoffed an abbot & his couent, a pryour and hys couent to haue & to holde of thẽ & theyr successours in pure & perpetual almes or in franke Almoygne or by suche wordes to holde of the graūtour or of the lessour and hisheyres in free almes. In such case tenementes were holden in franke Almoygne, and in the same maner iswhere the landes or tenementes were graūted in olde tyme to a Dean and Chapter & to theyr successors, or to a pson of a church and to his successours or to any other mã of holy church, & to hissuccessours in free almes, yf he had capacyte to take suche grauntes or feffementes. &c. and such as holde in free almes be bounde of ryght before God to do orysons, prayer, & masses and other dyuyne seruyce for the soules of the grauntours or feoffours or for the soules of theyr heyres whiche be dead, & for the prosperyte and good lyfe of them that be a lyue.

And for thys they do nat no tyme no maner of fealte vnto theyr lordes, for þ^t suche dyuine seruyce is better for them before God than any doynge of fealte, & also that these wordes fre almes, or frãk almoygne exclude the lorde to haue any worldly or temporall seruyce, but onely to haue dyuyne and spyrytual seruyce to be done for hym. &c. And yf suche þ^t holde theyr tenementes in fre almes or franke almoygne wyll nat or fayle to do suche dyuyne seruyce as it is sayde, the lorde may nat dystrayne them for the seruyce vndone. &c. bycause it is nat set I certayn what seruyce they ought to do, but the lorde may of that cõplayne to theyr ordynary, prayenge hym that he wyll set punyshement and correccyon of that. And also to prourde and se that suche negligence be nomore done, & the ordynary of tyght ought to do that. &c.

Tenaũt in free almes shall do no homage.

¶ But where an abbot or a pryour holdeth of his lorde by certayne dyuyne seruyce in certayn to be done, as for to synge a masse euery fryday in the weke for the soules. &c. or euery yere at suche a day to synge placebo and dirige. &c. or to fynde a chaplayne to syng masse. &c. or to distrybute in almes to an hondreth poore men an hondreth pence at such a day, in suche case yf suche dyuyne seruyce be nat done

Tenaũt by cuile seruice.

the lorde may distrayne. &c. for that thys dyuine seruyce is in certayne by theyr tenure what the abbot or the priour ought to do. And in such case the lorde shal haue the fealte. &c. as it semeth. And suche tenure is nat sayd tenure in fre almes, but it is sayd tenure by dyuyne seruyce, for in tenure in fre almes or franke almoygne no mencyon is made of any maner certayne seruyce, for none may holde in fre almes or franke almoygne yf there be expressed any maner certayne seruyce that he ought to do.

A question. ¶ Also yf it be demaunded yf the tenaũt in frãke maryage shal do fealte to the donour or to hys heyres before the fourth degre be paste. &c. it semeth yea, for he is nat lyke as to this entent to a tenaunt in fre almes or franke almoygne, for that ꝑ tenaunt in fre almes shall do bycause of his tenure dyuyne seruyce for hys lorde as it is aforesayd, and that he is charged to do by the lawe of holy church, and for that he is excused & discharged of fealte But tenaũt in franke maryage doth nat by his tenure suche seruyce. And yf he do nat to his lorde fealte, than he doth nat to his lorde any maner of seruice neyther spyrytual nor tempozal which shulde be an inconuenyence and agaynst reason ꝑ a man shulde haue estate of inherytaunce

answer.

of

of another, yet the lorde shal haue no maner of seruyce of him as it semeth, & so it semeth that he shal do fealte to his lorde before the fourth degre be paste. &c. And whā he hath done fealte he hath done all his seruyce. And yf an abbot holde of his lorde in fre almes and the abbot and his couent vnder theyr comon seale alyen ye same lande to a seculer man in fee symple in this case the seculer man shal do fealte to the lorde, for that he may nat holde of his lorde in free almes, for yf the lorde ought nat to haue of him fealte, than he shal haue of hī no maner of seruice whiche shulde be an inconuenience where he is lorde & the tenement is holdē of him.

Also yf a man graunt at hisday to an abbot or to a pryour landes or tenementes in fre almes or frāke almoygne, these wordes fre almes or franke almoygne be boyde, for that it is ordeyned by the statute which is called Quia emptores terram (which statute was made. An. 18. regis. E. 1. That no man alyen or graunt lādes or tenementes in fee symple to holde of him selfe, so that yf a man seased of certayne lādes or tenemētes which he holdeth of his lorde by knyghtes seruyce & at his day he graunteth the same lande to an abbot. &c. in fre almes or franke almoygne, the abbot shal holde immediatly

West. 3.

the same tenement] by knyghtes seruyce of the lorde of his grauntour bycause of the same estatute, so ẏ no man may holde in fre almes or in frãke almoyne, but yf it be by tytle of prescrypcyon, or by force of a graunt made to some of his predecessours before the same statut. But ẏ kyng may gyue landes or tenementes in fe simple to holde in fre almes or franke almoygne, or by other seruice, for he is out of the case of the statute. And note well that no man may holde landes or tenemẽtes in fre almes but of the grauntour or his heyres, and that for the pryuyte of ẏ gyft, and therfore it is sayd that yf there be lorde, mesne and tenaunt, & the tenaũt is an abbot that holdeth of his mesne in franke almoygne, yf the mesne dye without heyre, than the menalte shal come by eschete to the sayd lorde aboue, and the abbot thã shal holde of him immedyatly onely by fealte, and shal do him fealte for that he may nat holde of hym in franke almoygne. &c.

P.12. E.4. en Assyse.

* The kyng is aboue his law

☞ And note well where that such a mã of relygion holdeth his lãdes of his lord in fre almes. &c. his lorde is bounde by ẏ lawe to acquyte hym of euery maner of seruyce that any lorde aboue hym wyll demaunde or aske of the same tenement] And yf he acquyte him nat but suffereth

him

him to be dystrayned &c. thā he shal haue agaynst his lorde a wryt of Mesne, & recouer his damages & costes of his suyte. A wryt of mesne

¶ Homage auncestrel. Cap vii.

TEnure by Homage auncestrell is where a tenaunt holdeth his lāde of his lorde by homage, & the same tenaunt & his auncestre whose heyre he is hath holde of the same lande of ẏ sayd lorde and of his auncestres whose heyre the lorde is from tyme out of mynde by homage & haue done Homage vnto him which is called Homage auncestrell bycause of the contynuaunce whiche hath ben by tytle of prescrypcion in the tenaūcy, in the blode of the tenaūt, and also in the lordeshyppe in the blode of the lorde. And suche seruyce by homage aūcestrell draweth to him warranty of the lorde ẏ is alyue hath receyued homage of suche a tenaūt, he ought to warrant his tenaūt whan he is impleaded of the landes holden of him by homage auncestrell. And also suche seruyce by homage Auncestrel draweth to him aquytaūce, that is to say the lorde ought to acquyte his tenaunt agaynst all other lordes aboue hym of euery maner of seruyce. And it is sayde yt yf such tenaunt be impleded by a Prec̄ ꝙ reddat. &c. and he voucheth hys lorde to warranty, whiche cometh in by proces

*Warrantye.

A quytaunce.

*Dyſclamer.

and asketh of the tenaunt what he hath to bynde him to warranty, & he sheweth howe he and his auncestres whose heyre he is, haue holden the lande of the bouche and of hys aūcestres whose heyre he is by homage &c. tyme out of mynde, yf the lorde which is bouched receyueth no homage of the tenaunt nor of any of hys auncestres, the lorde than yf he wyl may disclayme in the lordshyp, and so put out the tenaunt of his warrantye, but yf the lorde whiche is bouched hath receyued homage of the tenaunt or of any of hys auncestres, than may he nat dysclayme, but he is bounde by the lawe to warrāt the tenaunt, and than yf the tenaunt lese the lande in defaut of the bouche, he shal recouer in value agaynste the bouche of the landes & tenementes that the bouche had at the tyme of ỹ bouche or any tyme aft. And it is to wete in euery case where the lorde may disclayme in his lordshyp by the lawe in court of record, & of that wyll disclayme, his seygnory is extyncte and the tenaunt shall holde of his lorde nexte aboue the lorde whiche so disclaymeth. But yf an abbot or pryour be bouched by force of homage auncestrell &c. thoughe he hath neuer taken homage &c. Yet he can nat disclayme in this case nor

Recouerye in value.

rule.

nor in none other case, for they can nat deuest that thynge in fee which hath ben vested in theyr house. Pasche. 10. E. 4.

¶ Also yf a man that holdeth his lande by homage Auncestrell alyeneth his lande to another in fee, the alyen shall do Homage to his lorde. But he holdeth nat of his lorde by homage Auncestrel, for that the tenaunce was nat contynued in the blode of the auncestres of the alyen, nor the alyen shall neuer haue the warranty of his lande of his lorde, for that the contynuaunce of the tenaunce in the tenaūt and in his blode by the alyenacion is discontynued, and so se that the tenaūt that holdeth his lande by homage Auncestrel of his lorde, and such a tenaūt alyeneth in fee, though that he take estate of the alyen agayne in fee, he holdeth the lande by homage, but nat by homage auncestrel.

¶ Also it is sayd that yf a man holde his lande of his lorde by homage and fealte and he hath made homage and fealte vnto his lorde & the lorde hath yssue a sone and dyeth, and the lordeshyp discendeth to his sone. In this case ꝑ tenaunt which dyd homage to the father shal nat do homage to the sone, for that whan a tenaūt hath made ones homage to his lorde, he is excused for terme of hys lyfe to make homage to any other heyre of the lorde.

A man shal make homage but ons in hys lyfe.

But

But yet he shall do fealte to the sone and heyre of his lorde, thoughe that he made fealte to his father.

Also yf the lorde after the homage to him made by his tenaunt, graunt the seruyce of his tenaunt by dede vnto another in fee, and the tenaunt attorneth. &c. the tenaunt shall nat be compelled to do homage, but he shall do fealte thoughe he dyd fealte before to the grauntour, for fealte is inedent to euery attornement whan the lordshyp is graunted. But yf a man be seysed of a manour, and another man holdeth his lande of hym as of the manour aforesaid by homage, the which hath done homage to his lorde which is seased of the manour, if after that a straunger bringe a Precipe qd reddat against the lorde of the manour and recouereth the manour against him and sueth execucyon &c. in this case the tenaut shal ones agayn do homage to him that recouereth the manour, for þ the state of him which receyued homage before, is defeted by þ recouere. And it shal nat ly in the mouth of the tenaunt to falsefy or defete the recouere whiche was against his lorde, & so se the dyuersyte. In this case where a man cometh to his lordshyp by recouere and where he cometh by discent or graūt of the seygnory.

A rule.

Whan a mā shall make twyse homage

Dyuersyte.

And

And yf a man tenaunt whiche ought by his tenure to do homage to his lorde come to his lorde & say to him syr I owe to do vnto you homage for the tenemen tes that I holde of you, and I am redy to do you homage for the same tenementes for the whiche I pray you that ye will nowe receyue it, and yf the lorde than re fuse to receyue it, than after suche refuse the lorde may nat distrayne the tenaunt for the homage, before that the lorde re quyre the tenant todo homage and the te naunt refuse to do it.

When the te naunt shal nat be dys trayned whā he doth no homage

¶ Also a man may holde his lande by ho mage Auncestrel and by escuage or by o ther knyghtes seruice as wel as he myght holde his lande by homage Auncestrel in Socage.

¶ Graunde sergeauntye. Cap. viii.

TEnure by graunde sergeauntie is where a man holdeth his landes & tenementes of our souerayne lorde the kyng, by the seruyce which he ought to do in his owne proper pson, as to bere the kynges baner or his spere or to lede his host, or to be his marshall, or to bere his sworde before him al hys coronacyō or to be his sewer at his coronacyon, or his karuer, or butteler or to be one of his chāberlaynes of his receyte of his esche quer, or do suche seruices. &c. and ꝑ cause

*The most honorable holde.

wherfore such seruyce is called great sergeaunt, is for that it is more honorable and worshypfull, and digne than is ꝑ seruyce of the tenure by escuage, for he that holdeth by escuage is nat ympytted by his tenure to do any more especyall seruyce than any other that holdeth by Escuage ought to do. But he that holdeth by graunde sergeaunty ought to do a specyall seruyce to the kynge. But he that holdeth by escuage ought nat to do.

☞ Also ꝑ the tenaūt which holdeth by escuage dye, his heyre beynge at full age ꝑ he helde by a knyghtes fee, the heyre shal pay but an C.s. for his relyefe, as it is ordeyned by the statute of Magna carta. Cap. 2. But he that holdeth of ꝑ kynge by graunde sergeauntie and dyeth, hys heyre beynge of full age shall pay vnto ꝑ kynge for his relyfe the value of his landes or tenementes by yere, besyde ꝑ charges and reprises whiche he holdeth of ꝑ kynge by graunde sergeauntry. And it is to were that seriantia in latē is seruiciū and so magna seriantia is magnum seruicium, that is to say a great seruyce.

Relefe.

☜ Also those whiche holde by escuage ought to do theyr seruice out of ꝑ realme but they that holde by graunde sergeant for the most parte ought to do theyr seruyce within the realme.

¶ Also

¶ Also it is sayde that in the marches of Scotlande some holde of the kynge by cornage that is to say to blowe an horne for to warne the men of the countre. &c. whā they here that the Scottes or other enemys wyl come or entre into Englāde &c. which seruyce is graunde sergeaunte &c. But yf any tenaūt holde of any other lorde thā of the kyng by suche seruice of cornage, ẏ is nat grande sergeaūte, but it is knyghtȝ seruice, & draweth to hī ward maryage, & relyefe, for none may hold by graūde sergeaūte but of the kyng onely.
¶ Also a man maye se in the.xi. yere of Henry the fourth that Cokyn thā beyng chyfe baron of theschequer came into ẏ comon place bryngynge with him acopy of recorde in these wordes. Talis tenet tantam terram de domino regis per seriantiam ad inueniendū vnum hominem ad guerrā infra quatuor maria. &c. That is to say, such a mā holdeth so much lāde of our souerayne lorde the kynge by sergeaunty to warre within the foure sees and he demaūded whether he was graūd sergeauntye or Petyte sergeauntye, and Hanke than sayde that it was graunde sergeaunty, for that it was seruyce to be done by the body of a man, and yf that he may nat fynde a mā to do the seruyce for him he must do it him selfe. To whō the other Justyces assēted, Cokayn thā sayd

the tenaunt in this case shal pay releke to the value of the lãde by yere, to ꝑ which was none ãswere. And note that al they that holde of the kynge by graunde sergeaunt, holde of the kynge by knyghtes seruyce, and the kynge of that shall haue warde, maryage and releke. But the kyng shal nat haue of thē escuage if they holde nat by escuage.

¶ Petyte sergeauntye. Cap. ix.

Tenure by Petyte sergeauntye is where a man holdeth his lande of our souerayngne lorde the kynge to yelde to him yerely a bowe, or a sworde, or a dagger, or a knyfe, or a spere, or a payre of gloues of mayle, or a payre of spores gylt, or an arowe, or diuers arowes, or to yelde suche other smale thynges touchynge the warre. And such seruyce is but Socage in effect, for that, ꝑ the tenaunt by hys tenure ought nat to go nor to do any thynge in his owne ꝑson per person touchynge the warre. But to yelde and pay yerely certayne thynges to the kynge, as a man ought to pay a rent.

Petyte sergeãty is Socage in effect.

And note that no man may holde lande by graunde sergeauntye nor by Petyte sergeauntye but of the kynge.

¶ Burgage Cap. x.

Tenure

TEnure in Burgage is where an auncyent boꝛough is, of the which the kynge is loꝛde, and they that haue tenementes within the boꝛough holde of the kynge theyꝛ tenementes that euery tenaunt foꝛ his tenement ought to paye to the kynge a certayne rent by yere. &c. And suche tenure is but tenure in Socage, & the same maner is where another loꝛde spyꝛytuall oꝛ temperall is loꝛde of suche a boꝛough. & the tenauntes of the tenementes in such a boꝛoughe holde of theyꝛ loꝛde to paye eche of them yerely an annuell rent, & it is called tenure in Burgage foꝛ that the tenementes within the the bꝛoughe be holden of the loꝛde of the boꝛoughe by certayne rent. &c. And it is to were that the auncyent townes called bꝛoughes be the most auncyent & eldeste townes that be within Englande foꝛ the townes that nowe be Cyties oꝛ countres in olde tyme were boꝛoughes and called boꝛoughes, foꝛ of suche olde townes called boꝛoughes come the burgeses of the parlyament to the parlyament whan the kynge hath somoned his parlyament. Burgeses of ꝑ parlyament.

Also foꝛ the greatter part of such boꝛoughes haue dyuers customes and vsages whiche be nat had in other townes, foꝛ some bꝛoughe hath suche custome ꝑt yf a man haue yssue of many sonnes and

dyeth

dyeth, the yongeſt ſonne ſhal inherite al the tenementes which were his fathers within the ſame bozoughe as heyre vnto his father by kozce of the cuſtome ꝑ whi che is called bzoughe Engliſche.

☞Alſo in ſome bzoughe by the cuſtome the wyfe ſhal haue koz her dower all the tenementes whiche were her huſbande.

Deuyſe by cuſtome.

¶Alſo in ſome bozoughe by the cuſtome a man may deuyſe by his teſtament hys landes and tenementes which he hath in fee ſymple within the ſame bozoughe at the tyme of his deth, and by kozce of ſuch deuyſe, to whom ſuch deuyſe is made, after the death of the deuyſour may entre in the tenemētes to him deuyſed, to haue and to holde to him after the fourme and effecte of the deuyſe without any lyuere of ſeyſyn therof to be made to him.

Mg.4. E.j.

¶Alſo thoughe a man maye nat graunt noz gyue his tenementes to his wyfe during the couerture, koz that, ꝑ his wyfe and he be but one perſon in the lawe, yet by ſuche cuſtome he maye deuyſe by hys teſtament his tenementes to his wyfe, to haue and to holde to her in fee ſymple, oz in fee tayle, oz koz terme of lyfe, oz of yeres, koz that ſuche deuyſe taketh no effect but after the death of the deuyſour. And yf a man at dyuers tymes make dyuers teſtamentes and dyuers deuyſes, yf. Yet

the

the last deuyse and wyl made by him shal stande and abyde.

☞Also by such custome a man may deuyse by his testamēt that his executours may alyen and sell the tenementes that he hath in fee symple for a certayne sōme to dystrybute for the soule, in this case thoughe the deuysour dye seased of the tenementes and the tenementes descēde vnto his heyre, yet the executours after the death of the testatour may sell the tenementes so deuysed and put out ꝑ heyre and therof make a feoffemēt alyenacyon and estate by dede or without dede to thē to whom the sale is made vnto.

Howe a man may make a lawfull estate where he hath nothige in the lande.

☞And so may ye se here a case where a man may make a lawful estate, and yet he hath nought in the tenemētes at ꝑ tyme of the estate made, & the cause is for that that the custome and vsage is such. Quia consuetudo extra cā rationabili vsitata ꝓriuat cōmunē legē. For a custome vsed vpon a certayn reasonable cause barreth the comon lawe. And note well no custōe is to be alowed, but such custome as hath ben vsed by tytle of ꝓscripcyon, that is to say, frome tyme wherof is no mynde.

Marke.

But dyuers oppynyons haue ben of tyme out of mynde and ꝑ tytle of ꝓscrypcion which is al one in the lawe, for some mē haue sayd that the tyme of mynde shulde

sayd

sayd for tyme of lymytacion in a wryt of ryght, that is to say, frō the tyme of kyng Rycharde the fyrst after ꝑ conquest, as is gyuē by the statut of Westm. 1. For that a wryt of Ryght is the most hyest wryt in his nature ꝑ may be. And in such a wryt a man may recouer his ryght of the possessyon of his auncestres of the most auncient tyme that any mā may by any wryt by the lawe. And in so much that it is gyuen by the sayd statute of westm. 1. Ca. 28. that in suche a wryt none shalbe herde to aske of ꝑ seysyon of his auncestres of more longer tyme thā of the tyme of kyng Rycharde aforesayd, therfore this is proued that contynuaunce of possessyon or other customes and vsages vsed after the same tyme is tytle of prescrypcion, and this is certayne. And other haue sayd that well and truly it is that seysyn & cōtynuance after the lymytacyon. &c. is a tytle of prescrypcyon as is aforesayd and by ꝑ cause aforesayd But they haue sayd that there is also another tytle of prescrypcion that was in the comon lawe before any statute of lymytacyon of wrytes. &c. & that was where a custome or vsage or other thynge had ben vsed from tyme whereof mynde of man ronneth nat to the contrary, and they haue sayde that this is proued by ꝑ pledynge where a mā wyl plede

* The opinions of the tytle of prescripcyon in tyme of mynde.

a tytle

a tytle of prescrypcyon of custome &c. he shal say that suche custome hath ben vsed fro tyme wherof the memory of men ronneth nat to the contrary, ꝑ is as mych to say, whan such a matter is pleted that no man than alyue hath harde one proue to the contrary, nor hath no knowlege to ꝑ contrary, and in so much that suche tytle of prescripcion was at the comon lawe & nat put out by no estatute. Ergo it abydeth as it was at the comon lawe, & the soner in so much that, that the sayd limitacyon of a writte of Ryght. &c. is of so longe tyme past. Ideo quere de hoc, and many other customes & vsages haue such auncyent boroughes.

Title of prescripcyon

☞ Also euery borough is a towne, but nat to the contrary, more shalbe sayde of customes in the tenure of vyllenage.

☞ In quere.

¶ Vyllenage. Cap. xi.

TEnure in vyllenage is most properly whan a vyllayne holdeth of his lorde to whom he is vyllayne certayne landes & tenementes after the custome and maner or els at the wyl of his lorde, and to do his vyllayne seruyce, as to dere, dyrynge, and cary out his donge & fylth of the lorde vnto the lande of hys lorde there to lay it, cast it, and spreede it abrode vpon the lande, and to do suche other maner of seruyce, & some fre tenaūt

Howe some holde in vyllenage and be no vyllaynes.

holde of theyr tenementes after ꝑ custõe of certayne manours by such serupces, & theyr tenure is called tenure in vyllenage, and yet they be no vyllaynes, for no lande holden in vyllenage or vyllayne landes, or any custome rysynge of the lãde shal neuer make fre mã vyllayne But a vyllayne may make fre lande to be vyllayne lãde vnto his lorde, as yf a vyllayne purchase lande in fee symple or in fee tayle, the lorde of the vyllayne maye entre into the lande and put out his vyllayne & his heyres for euer and after the lorde yf he wyll he may let the same lãde to ꝑ vyllayne to holde in vyllenage. Also yf a feoffement be made to a certayne person or persons in fee to the vse of a vyllayne, or yf a vyllayne or any other persons be enfeoffed to the vse a vyllayne, what estate so euer the vyllayne hath in the vse, in fee tayle for terme of lyfe, or yeres, the lorde of the vyllayne may entre in al those landes & tenementes lyke wyse as yf the vyllayne had bẽ alone seysed of the demesne. And that is by the statute of An. 19. H. 7. But yf a fre man wyll take any landes or tenemẽtes of his lorde by suche vyllayne serupce, that is to say to pay a syne to his lorde for his mariage or for the maryage of his sonne or hys daughte, than he shal pay such a syne for ꝑ maryage

maryage.&c.for that it is the foly of such a fre man to take in suche fourme landes or tenementes to holde of hys lorde by suche bondage. Yet that make nat the fre man vyllayne.

¶ Also euery vyllayne eyther he is vyllayne by prescrypcion, that is to say he & his auncestres haue ben vyllaynes tyme out of mynde, or he is vyllayne by hys owne cōfessyon in court of recorde. But yf a fre man haue diuers issues, and after confesseth him selfe to be vyllayne to another in court of recorde, yet his yssues whiche he hath before the confessyon be fre, but the yssue which he shall haue after the confessyon. &c. shalbe vyllaynes.

Diuisiō of a vyllayne. T.ii. H.4.

¶ Also yf a vyllayne purchase lādes, and alyeneth the same landes to another before his lorde entre, than the lorde maye nat entre for it shalbe iudged his owne foly that he entred nat whan the lande was in his vyllaynes hādes. And so it is of his other goodes, for yf the vyllayne bye & sell or gyue goodes to another before that the lorde seaseth the goodes thā the lorde maye nat sease them, but yf the lorde before any such sale or gyft cometh within the house of the vyllayne where such goodes be, and there openly amōge the neyghbours clayme the same goodes to be his, & so seyseth parcell of the same

*What maner of lande purchased by a vyllayn is good.

A good seysyn.

in name of seysyn of all the goodes. &c. Thys is sayd a good seysyn in the lawe. And the occupacyon ꝑ the byllayne hath after suche clayme in the goodes shalbe taken in the lawe in the ryght of ꝑ lorde But yf the kyng haue any byllayne that purchaseth lādes & alyeneth before that the kynge entre, yet the kyng may entre in the lande, in whose handes the lande cometh to. Or yf the byllayne bye or sell dyuers goodes before that ꝑ kynge seale the goodes, yet the kynge maye seale the

Mayle.

in whose handes so euer they be. Quia nullum temp⁹ occurrit regi, for no tyme ronneth agaynst the kynge.

Also yf a man let lande to another for terme of lyfe saynge the reuersyon to him, and a byllayne purchaseth of the lessour ꝑ reuersyon. In this case it semeth that the lorde of the byllayne may incōtynent come to the lande and clayme the same reuersyon as lorde of the same byllayne, & by this clayme the reuersyon is incōtinent in him, for in any other forme he may nat come to the reuersyon for he may nat entre vpon the tenaūt for terme of lyfe, and yf he ought to abyde tyl after the death of the tenaūt for terme of lyfe, than happely he myght come to late, for paraduenture the byllayne wyll graunt or alyen it to another in the lyfe of ꝑ tenaūt

* Whā the lord shal clame reuersion and a nouelson purchased by his byllayne.

for

for terme of lyfe In the same maner it is where a bylayne purchaseth the auouſō of a churche full of an incōbent, that the lorde of the bylleyne may come to ꝑ ſayd church & clayme ꝑ auouſon. And by this clayme the auouſon is in him, for yf he a byde tyll after the death of the incōbent and than preſent hys clerke to the ſayde church. Then in the meane tyme the bylayne myght alyene the auouſon. &c. and ſo put out the lorde frō his preſentacion.

Diuiſiō

¶Alſo there is a bylayne regardaunt & a bylayn in groſſe. Wyllayne regardant is as yf a man be ſeyſed of a Manour to which a bylayne is regardaunt, and he that is ſeyſed of ꝑ ſayde Manour or they whoſe eſtate he hath in ꝑ ſame Manour haue ben ſeaſed of the ſayd bylayne and of his auncēſtres as bylaynes regardant to the Manoure frō tyme out of mynde. And bylayne in groſſe is where a mā is ſeyſed of a Manour to the whiche a bylayne is regardaunt and he graunteth the ſame bylayne by his dede vnto another than he is bylayne in groſſe and nat regardaunt.

Wyllain regardaunt.

Wyllain i groſſe.

¶Alſo yf a man and his auncēſters whoſe heyre he is, hath ben ſeaſed of a bylayn and of his auncēſters as bylayn in groſſe tyme out of mynde ſuche ben bylaynes in groſſe. And note well ꝑ of ſuche thyn-

A forme of prescripcion.

ges whiche maye not be graunted nor aspened without dede or tyme, a man that wyl haue suche thynges by prescripcion may not otherwyse prescrybe but in him and his auncesters whose heyre he is, and not by these wordes in hym and in those whose estate he hath: for that, þ he maye not haue theyr estate wout dede or wrytynge, the which behoueth to be shewed to þ court yf he wyl haue any aduantage of this, and bycause that the graunt and the alyenacion of a byllayne lyeth not wout dede or other wrytynge. A man may not prescrybe in a byllayne in grosse wout shewynge of wrytynge but in hym selfe that claymeth the byllayne & in his auncesters whose heyre he is. But of those thynges which be regardaunt or appendaunt to a Manour or to other landes or tenementes, a man may prescribe that he and they whose estate he hath were seased of the Manoure or of suche landes or tenementes as regardauntes or appendauntes to the Manour or to such lãdes and tenemẽtes. &c. frõ tyme out of mynde and the cause is for this that such a Manoure landes and tenementes may passe by alyenacyon without dede. &c. And it is to wyt that nothynge is named regardant to a Manoure but a byllayne. But certayne other thinges as auowsons and

Regardaunt appendaunt.

comune

comune of pasture.&c.be named appendauntes to the manoure or to other landes and tenementes.

¶ Also yf a mā in court of recorde knowlege him selfe to be vyllayne that neuer was vyllayne before, suche one is vyllayne in grosse. ¶ In grosse.

¶ Also a man that is vyllayne is called vyllayne, and a woman that is vyllayne is called nyefe, as a mā that is outlawed is called an outlawe, and a woman that is outlawed is called a wayue. Nyefe & wayue.

¶ Also yf a vyllayne take a free woman to wyfe, the yssue betwene them shall be vyllaynes. But yf a nyefe take a fre man to husbande, theyr yssue shalbe free. And that is cōtrary to ẏ lawe ciuile, for there he sayth that, pertus sequitur ventrem. Justi. li.i. Tit.de ingenuis Sufficit aunt liberam fuisse matrem Spuri⁹

¶ Also no bostarde may be vyllayne, but yf that he wyll knowlege him selfe to be a vyllayne in court of recorde, for he is in the lawe Quasi nullius filius, as the sonne of no man, for that he may be inherytour to no man.

¶ Also euery vyllayne is able and fre to sue all maner of accyons agaynst euerye person excepte agaynst his lorde to whō he is vyllayne, and yet in certayne thynges he may haue agaynst his lorde an accyon of Apele for the death of his father or of his other auncestours whose heyre

he is. Also a nyef whiche is rauysshed by her lorde may haue apele of rape agaynst him.

¶ Also yf a vyllayne be made executour to another, and the lorde of the vyllayne was indetted to ꝑ testatour in a certayne somme of money the which is not payde in this case the vyllayne as executour to the testatour shall haue an accion of Det agaynst his lorde bycause he shal nat recouer the Det to his ꝓper vse, but to the vse of the testatour.

Whan the vyllayne shall haue accion of Det or tresꝑas agaynst his lord

¶ Also the lorde may nat take out of the possessyon of suche a vyllayne that is executour of the deades goodes, and yf he do, the vyllayne as executour shall haue an accyon of Tresꝑas agaynste his lorde for the same goodes so take and recouer damages to the vse of the testatour. But in all these cases it behouethe the lorde whiche is defendaunt in such accions to make protestacyon that the playntyfe is his vyllayne, or ꝑ els vyllayn shalbe frustrated though the matter be founde for the lorde agaynst ꝑ vyllayne as it is sayd

Protestacion.

☞ Also yf a vyllayne sue an accyon of Tresꝑas or other actiō agaynst his lorde in one shyre, and the lorde sayth that he shall nat be answered for that he is vyllayne regardaunt to his manoure in another shyre, & the playntyfe sayth that he

is

is franke and of fre estate & no vyllayne this shalbe tryed in the shyre where the playntyfe hath cōceyued his accyon, and not in the shyre where the manoure is & this is in fauoure of lybertie as it is adiuged M.40.E.3. And for this cause was made a statute in the.ix.yere of Rycharde the seconde, the tenure of which ensueth in suche fourme.

Tryall of vyllenage.

¶ Also for that where many vyllaynes & nyfes as well of great lordes as of other folke spyrytuall or temperall flee and go into cyties and places fraūchysed as the cytye of London and other lyke places, & fayne dyuers sutes agaynst theyr lordes bycause they wolde make thē selfe to be enfraunchysed, it is accorded and assēted that the lordes nor none other shalbe for barred of theyr vyllayns bicause of their answere in the lawe. Byforce of whiche statute yf any vyllayne wyll sue any maner of accyō to his owne vse in any shyre where it is harde to trye. &c. agaynst his lorde, his lorde maye chose to plede that the playntyfe is hys vyllayne, & to plede another matter in barre, & yf they be at yssue & the yssue be founde for the lorde, than the vyllayne is vyllayne as he was before biforce of the same statute. But yf the issue be founde for the vyllayne than is the vyllayne franke and fre for that ẏ

*The wordes of the statute.

lorde toke not for hys plee that the vyllayne was his vyllayne, but toke it by p̄ teſtacyon.

¶ Also the lorde may nat mayne his vyllayne, for yf he mayme his vyllayne he ſhall of that be idyted at the kinges ſute. And yf he be of that attaynt, he ſhal for p̄ make greuous fyne and raunſome to the kynge. But it ſemeth that p̄ vyllaine ſhal not haue by the lawe apele of mayme agaynſt his lorde, for in apele of mayme a man ſhal nat recouer but his damages. And yf the vyllayne in that caſe recouer damages agaynſt hys lorde & hath therof execution, the lorde may take that, that the vyllayne hath in execution fro p̄ vyllayne, & ſo the recouere ſtandeth boyde.

Where for a vyllayn may nat ſue an appel of mayme agaynſt his lord

¶ Also yf the vyllayne be demaundant in an accyon royall or playntyfe in accyon perſonall agaynſt his lorde, yf the lorde wyl plede in diſabylite of his perſone he may nat make playne defence, but he ſhal deffende but the wronge and the force and demaunde iudgement yf he ſhalbe anſwered, and ſhewe hys matter by & by howe he is vyllayne and demaunde iudgemēt yf he ſhalde anſwered.

¶ Also. vi. maner of mē there be agaynſt whom yf they ſue accions. &c. Iudgemēt may be aſked yf they ſhall be anſwered. One is where p̄ vyllayne ſueth an accyō

Non habilite vyllayn

&c.

&c. agaynst his lord, as in case afore sayd. The seconde is where a mā outlawed vpō an accyon of Dette or Trespas, or vpon any other accyon or indytement, the tenaunt or the defendant may shewe al the matter of the recorde & the outlawry, and demaunde iudgement yf he shall be answered bycause that he is out of ỳ lawe to sue any accyon durynge the tyme that he is outlawed. The thyrde is where an alyene borne out of the allegyaūce of our soueraygne lorde ỳ kynge yf suche alyen sue any accyon royal or personal, the tenaunt or defendant maye say that he was borne out of the kynges allegyaunce and aske iudgement, yf he shall be answered. The fourth is where a man by indgemēt gyuen agaynst him vpon a wryt of Premunire facias. &c. is out of the kynges protection, yf he sue any accyon and the tenaunt or defendant shewe all the recorde agaynst him, he maye aske iudgement yf he shalbe answered for ỳ lawe & the kynges wryttes ben the thynges by whiche a man is protecte and holpen, and so durynge the tyme that a man in suche case is out of the kynges proteccion he is out of helpe and protecte by ỳ kynges lawe or by the kynges wryt. The fyft is wher a man is entred & professed into relygiō yf suche a person sue an accyon, ỳ tenaūt or

An outlawe

An alīe borne.

A man condemned in Premunire.

A relygyous man.

or defendant may shewe that such one is entred into relygion in suche a place into thorder of sayne Benet and is there a monke professed, or in thorder of fryers mynors or prechars and is there a fryer professed, and so of other orders of relygion. &c. and after iudgement yf he shalbe answered, and the cause is for this that when a man entreth into religion and is professed, he is deade in the lawe. And his sonne or next cosyn incontynent shal inherite him as wel as thoughe he were deade in dede, and whan he entreth into relygion he may make his testament and his executours, and they may haue an accion of det due to hym before his entre into relygion or any other accyon that executours may haue if he were deade in dede. And yf he make none executours whan he entreth into relygion, than the ordynary may compt the administracion of his goods to other as yf he were deade in dede. The syrte is where a man is accursed by the lawe of holy churche & he sueth an accion royall or personal, the tenaunt or defendaunt may plede that he ꝑ sueth is accursed, & of this it behouethe him to shewe the byshops letters vnder his seale wytnessynge the accursynge & after iudgemẽt yf he shalbe answered. &c. But in thys case yf the demaundaunt or playntyte

A man excomunicate.

playntyfe can nat deny it, the wryt shall nat abate, but the iudgement shalbe that the tenaunt or defendaunt shal go quyte without day for this that whan the demaundant or playntyfe hath purchased his letters of absolucion and shewed thē to the court, he may haue a resomons or a reattachement vpō his orygynall after the nature of his wryt &c. but in ẏ other cases the wryt shal abate. &c. yf the matter shewed may not be gaynesayde. H.11. R.2.

☞ Also yf a vyllayne be made a seculer preest yet his lorde may sease him as his vyllayne and sease his goodes. &c. But it semeth that yf the vyllayne entre into relygion and is professed. &c. that the lorde may nat take hym nor sease hym for that he is dead in the lawe. And nomore than yf a fre man may take a nyfe to hys wyfe the lorde may nat take ne sease the wyfe of the husbande. But his remedye is to haue an accyon agaynst the husbāde, for that he toke his nyefe to wyfe withoute his wyll & lycence. And so may the lorde haue an accyon agaynst the soueraygne of the house that taketh and admytteth his vyllayne to be professed in the same house without lycence and wyll of hys lorde. &c. and shal recouer his damages to the value of the vyllayne, for he that is professed monke. &c. shalbe a monke, and

as

as a monke shalbe taken for terme of his lyfe natural except he be dcrayned by the lawe of holy church, and he is holden by his relygion to kepe hys cloyster, and yf the lorde may take him out of his house, than he shulde nat lyue as a dead persone nor after his relygion whiche shulde he in contynent. &c. ¶ For yf there be wardyn in chyualry of body & of lande of a chylde within age, yf ỳ chylde whan he cometh to the age of. xiiii. yeres entre into relygion and is professed, the wardeyn hath none other remedye as to the warde of ỳ bodye, but a writte of Raupschement of warde agaynst ỳ soueragne of the house. And yf any beynge of full age that is cosyne and heyre vnto the chylde entre into the lande, the wardeyn hath no remedy as to the warde of the lande bycause ỳ the entre of ỳ heyre of the chylde is lawfull in suche case.

The fauour of religiõ.

¶ Also in many dyuers cases the lorde may make manumyssyon and enfraũchesynge to his byllayne. ¶ Manumyssyon is properly whã the lorde maketh his dede to his byllayne to enfraunchyse him by thys worde manumittet which is as much to say, as extra manum Et extra potestatem alterius ponere, as to put him out of the handes and power of another. And for thys that by suche a dede ỳ byllayne is

¶ Manumyssio explecita.

is put oute of the hande & power of hys lorde, it is called manumyssyon. And so euery maner of enfraũchesynge made to a vyllayne may be sayde a manumyssyon Also yf the lorde make to his vyllayn an oblygacion of a certayne sũme of money or graunt vnto him by his dede or an annuite, or let him by his dede lãdes or tenemẽtes for terme of yeres, ẏ vyllayn is enfraũchysed. Also yf ẏ lorde make a feoffement to his vyllayne of any landes or tenementes by dede or without dede in fee symple, fee tayle or for terme of yeres, & delyuereth vnto him the seysyn, thys is an enfraũchysyng, but yf the lorde make to him a lease of landes or tenementes to holde at the wyll of the lorde by dede or without dede, this is no enfraũchysyng, for that he hath no maner of certayn nor suerty of his estate, but that ẏ lorde may put him out whẽ he wyll. Also yf a lorde sue agaynst his vyllayne, a precipi Quod reddat, yf he recouer or by nonsuyt after apparaunce, this is a manumyssyon, for this that he may lawfully entre into the lande without such sute. In the same maner it is yf he sue agaynste hys vyllayne an accion of Det, or of Accompt, or of Couenaunt, or of Trespas, or suche other, this is an enfraũchysynge. &c. for this ẏ he may emprysoñ his vyllayne and take his

Manumissio implicito.

No enfraũchysynge.

Causa.

Manumissyo.

Caussa

Enfrã.

Caussa.

None enfran.

his goodes without ſuche ſuyt. But yf the lorde ſue his vyllayne by appele of felony, this is none enfraunchyſynge to ꝯ vyllayne thoughe the matter of the appele is founde agaynſt the lorde bycauſe that the lorde may nat haue the vyllayn hanged without ſuche ſuyt. But yf the vyllayne were nat endyted of the ſame felony before the appele ſued agaynſt him and is acquyted of the felonye ſo that he recouer damages agaynſt the lorde for ꝯ falſe appele. And in this caſe the vyllayn is enfraūchyſed bycauſe of the iudgemēt of damage that was gyuē to him agaynſt his lorde. And more caſes & matters there be, by the whiche a vyllayne may be enfraūchiſed agaynſt his lorde. Sed de illis quere. Also if a lord of a manour wyl preſcrybe that it hath ben accuſtomed within his manoure tyme out of mynde that euery tenaunt within the ſame manour that maryeth his daughter to any man without lycence of the lorde of the manour ſhall make fyne to the lorde for the tyme beynge this p̄ſcripcion is voyde for none ought to make ſuche fynes but onely vyllaynes for euery fre man may freely mary his daughter to whom it pleaſeth him & his daughter. And bycauſe that this preſcrypcion is agaynſt reſon, ſuch preſcripcion is voyde. But in the ſhyre of Kente

Cauſa.

Enfrā.

Irrita preſcripcio.

of

of landes holden in Gauelkynde where by the custome, and tyme out of mynde, the chyldren males ought euenly to enherite, this custome is a lowable, for that that it is with some reason bycause that euery sonne is as great a gentylman as the elder sonne, and bicause of that more great honour & baloure shal growe than yf he had nothige by his auncestres, whiche paduenture he myght nat so growe. &c.

The custome of Gauelkynde.

¶ Also where by custome called brough Englysshe in some boroughe the yonger sonne shal enherite al the tenemētes. &c. This custome also standeth with reason bycause that the yonger sone yf he lacke father and mother bycause of his yonge age may leaste of all his bretherne helpe him selfe. &c. But yf a man wyl prescribe that yf any catel were vpon the demenes of his manoure there doynge damage, þ the lorde of the manoure for the tyme be ynge hath bled him to dystrayne them, & the distres to retayne tyl fyne were made to him for the damages at his wyl, this prescrypcion is voyd bycause it is agaynst reason that yf wronge be done to a man that he therof shulde be his owne iudge for by suche way yf he had damages but to the value of an halfe peny he might al selfe & haue therof an. C li. which shulde be agaynst all reason, and so such þscrip-

The custome of brough Englysh Iniqua prescripcio.

cyon or any other preſcrypcion bſed yf it be agaynſt all reaſon, this ought nat nor wyl nat be alowed before Judges. Quia malus vſus abolendus eſt.

¶ Rentes. Cap xiij.

Diuiſio Rent ſeruyce

THere maner of rentes there be, that is to ſay, Rent ſeruyce, Rēt charge and rent Secke. Rent ſeruyce is where a man holdeth hys lande of hys lorde by fealte and certayne or by other ſeruyce and certayne rent, or by homage fealte and certayne rent. And yf rent ſeruyce at any day that it ought to be payde be behynde, the lorde may diſtrayne for ꝑ of comon ryght. And yf a man nowe wyl gyue lādes or tenementes to another in the tayle yeldynge to him certayne rent by dyere, he of comon ryght may diſtrayn for the rent behynde, thoughe that ſuche gyfte was made without a dede, bycauſe that ſuche rent is Rente ſeruyce, but in ſuche caſe where a man bpō ſuch a gyfte or leaſe wyl receyue to hym rent ſeruyce It behoueth that the reuercion of the lā des and tenementes be in the donour or in the leſſour, for yf a man wyll make a feoffement in fee, or wyl gyue landes in the tayle the remaynder ouer in fee ſym= ple without a dede reſeruynge to him cer tayne rent, ſuche reuercion is voyde, by cauſe that no reuercyon is to ꝑ donoure

and

and suche a tenaũt holdeth his lande immediatly of the lorde of whome his donour helde. And this is byforce of the statute of Westm̃.3. Cap.1. Quia emptores terrarum. For before the same statute yf one made a feoffement in fee symple by dede or without dede yeldynge to him & to his heyres certayne rent, this was rẽt seruyce, & for this he myght distrayne of comon ryght. And yf he made no reuercion of any rent nor of any seruyce, yet ẏ feoffe holde of the feoffour by suche seruyces as the feoffoure helde euer of his lorde next aboue. But yf a man by dede indented at a day, make suche a gyft in the tayle, the remaynder ouer in fee. &c. or a feoffement in fee, & by the same endẽture reserueth to him and to his heyres a certayne rent, & that yf the rent be behynde than it shalbe lefull to him & to his heyres to dystrayne. &c. Suche rent is Rent charge, bycause suche lãdes & tenementes be charged of such distres byforce of the wrytyng only, & nat of comon ryght And yf suche a man in suche a dede endẽted, reserue to hym & to hys heyres certayne rent without any suche clause set or put in the dede that he may distrayne &c. than such rent is Rent secke, bycause that he can nat dystrayne to haue ẏ rent yf it be denyed by the same distres, and if

The comõ law before ẏ statute.

* Rent charge

* Rent secke.

he was neuer seased in this case of ꝑ rẽt, he is wout remedy as shalbe sayd here after. Also yf a man seased of certayne lãde graunt by his dede ꝑoll or by endenture a yerely rent yssuynge out of ꝑ same lãde to another in fee simple or in fee tayle or for tme of lyfe. ꝛc. with clause of dystres, ꝛc. then that is a rent charge, and yf it be without clause of distres, than it is rent Secke, & note well that rent Secke Jdẽ est quod reddit⁹ siccus, and for that, that no distres is incydent to it. Also yf a mã graunt by his dede to another & the rent is behynde, ꝑ graũt may chose yf he wyl sue a wrytte of Annupte of it agaynst the graũtour or distrayne for ꝑ rent behynde and the dystresse to withholde tyll he be of that payde. But he may nat do & haue both togither for yf he take a wryt of Annupte than the lorde is discharged. And yf he sue nat a wryt of Annupte but dystrayne for the arrerages and the tenaũt sueth a Replegiare. ꝛc. and the graunt auoweth the takynge of the distres in the lãde. ꝛc. in court of recorde, thã is ꝑ lãde charged, & the person of the grauntoure discharged of an accyon of Annupte.

¶ Annupte.

¶ Estopel

¶ Also yf a man wyll that another shall haue rent charge yssuynge out of the lãdes but he wyll not that his person shalde charged in a maner by a wryt of Annupte

nuyte than he may haue suche a clause in the ende of his dede. Prouiso semp quod presens scriptum nec aliquod in eo specificato non aliqualiter extendat adonerãdum personã meam per breue de annuali redditu. Sed tantummodo adonerand terrã & tenementa p̃dicta de annuali redditu predicto. And than is the lande charged and the person of the graũtour discharged. *Prouiso.

¶ Also yf a man make such a dede in such maner that yf A. of B. be not yerely payde at the feast of Chrystmas for terme of his lyfe of. xx. s̃. of lawfull money, that than it shalbe lefull to the sayde A. of B. to distrayne for it in the manour of F. &c. this is a good Rent charge, bycause that the manoure is charged of the rent by ways of distres. And yet the person him selfe ẏ made suche a dede is dyscharged in thys case of an accion of annuyte bycause that he graunted nat by his dede any annuite to the sayd A. of B. but graunted onely yt he may dystrayne for his annuyte.

¶ Also yf a man haue a Rent charge to him and to his heyres, ysswynge out of certayne lande, if he purchase any parcel of the lande to him and to his heyres, all the rentes is extincte & adnulled bycause that Rent charge may not in such maner be apporcyoned, but yf a man that hathe Extynguysshement.

Rent ſeruyce purchace parcel of the lãde wherof the rent is, this ſhal nat extincte all but for ꝑ porcyon for the rent ſeruyce in ſuche caſe may be appoꝛcyoned & ſhall be appoꝛcioned after the value of ꝑ lãde, but yf a tenaunt holde his lande by ſeruyce to yelde to his loꝛde yerely at ſuche a feaſt a hoꝛſe, oꝛ a hauke, oꝛ ſuch thynge ſemblable, yf in ſuche caſe the loꝛde purchace parcell of the lande, the ſeruyce is gone bycauſe that ſuche ſeruyce may not be ſeuered noꝛ appoꝛcyoned, but yf a mã holde his lande of another by homage, fealte and eſcuage, and by certayne rent, yf the loꝛde purchace parcell of the lãde. &c. In yt the rent ſhalbe appoꝛcyoned as is afoꝛeſayd, but yet in this caſe the homage & fealte abydeth hole to the loꝛde, for the loꝛde ſhall haue the homage and fealte of his tenaunt for the remenaũt of landes and tenementes holden of him as he had before. &c. for this that ſuche ſeruyces be no auncyent ſeruyces and maye nat be appoꝛcioned. But the eſcuage may and ſhalbe appoꝛcyoned after ꝑ quantyte and rate of the lande.

¶ Alſo yf a man haue a rent charge, and his father purchaſeth parcell of the tenemẽtes charged in fee and dyeth, and that parcell diſcendeth to his ſonne that hath the rent charge, nowe thys Rent charge

ſhalbe

shalbe appoyncioned after the value of the lande as is afore afore sayde of Rent seruyce bycause that suche a poyncion of the lande purchased by the father cometh not to the sonne by his owne dede but by discent and course of the lawe. * Rent Charge appoyncioned.

¶ Also yf there be lorde and tenaũt, and the tenaũt holdeth of his lorde by fealte and certayne rent, and the lorde graũteth the rent by his dede to another. &c. reseruynge to him the fealte, & the tenaunt attorneth to the graunt of the rent, nowe suche rent is Rent seeke to the graũt, for this ỳ the tenemẽtes be nat holde of that graunte of the rent, but be holden of the lorde that receyueth to him fealte. And in the same maner it is where a mã holdeth his landꝫ by homage, fealte, and certayne rent, yf the lorde graunt the rent saynge to him the homage, suche rent after such graunt is Rent seeke, but where lãdes or tenementes ben holde by homage, fealte, and certayne Rent yf the lorde graũt the homage of his lande by his dede to another saynge to hym the remenaunt of ỳ seruyces, & the tenaunt attorneth to him after the fourme of the graunt, nowe in this case the tenaũt holdeth his lande of the graunt, & the lorde that graunteth ỳe homage shal not haue but the rent as rẽt Seeke, and shall neuer dystrayne for the

rent, for this that neyther homage, nor fealte, nor Eſcuage may be ſayd Secke, for he that hath or ought to haue of hys tenaūt homage, or fealte, & eſcuage may of comon ryght dyſtrayne for it, yf it be behynde, for homage, fealte, and eſcuage ben ſeruices by which landes & tenemētes be holden, and ben ſuche that in maner may be taken but as ſeruyces. But otherwyſe is of rent that was ones Rent ſeruyce, for this þ whan it is ſeuered &c. by the graunt of the lorde fro the other ſeruyces, it may nat be ſayd Rent ſeruice for this þ he hath nat to it fealte, which is inſydent to euery maner of Rent ſeruyce, and for this it is ſayd rent Secke.

Nota.

¶ Alſo yf a man let lande to another for terme of lyfe reſeruynge to him certayn rent, yf he graunt the rent to another ſa uynge to him the reuercyon of the lande ſo letten by his dede. &c. ſuche rent is but rent Secke, for this that the graūte hath nothynge in the reuercyon of the lande. But yf he graunt þ reuercyon of the lāde to another for terme of lyfe, & the tenaūt attorneth. &c. than hath the graunte the rent as rent Seruyce, becauſe he hath þ reuercion for terme of lyfe. And ſo it is to be vnderſtāde that yf a man gyue landes or tenemētes in the taple reſeruynge to him and to his heyres certayn rent or

les

let lande for terme of lyfe reseruynge cer tayne rent, yf he graunt the reuercion to another, and the tenaunt atturneth all ẏ rent and seruyce passeth by the worde of the graunt of reuercyon, for this that all the rent & seruyce in suche case be incydentes to the reuercyon and passe by the graunt of reuercyon. But thoughe he graunt the rent to another the reuercyō passeth nat by suche graunt. &c. And so note well the diuersyte. And it is holden P.12.E.4. But it is adiudged. An.26.li. Assisarū, where as the seruyces of the tenaunt in tayle were graunted, that was a good graunt, yet natwithstādynge the reuercyon remaynes.

¶ Also yf there be lorde mesne & tenaunt and the tenaunt holdeth of the mesne by the rent of.v.s̄. and the mesne holdeth ouer by.xii.d̄. yf the lorde aboue purchase the tenauncy in fee, then the seruyce of the menalte is extincte for this that whā the lorde aboue hath the tenaūcy, he holdeth of the lorde next aboue him. And yf he ought to holde it of him ẏ was mesne than he shulde holde one selfe tenauncye immedyatlye of dyuers lordes whiche shulde be incōuenyent, and ẏ lawe wyll soner suffre a myschefe for that than an incōuenyence and for this the seygnory of the menalte is extyncte, but in somuch Maxie.

that the tenaunt helde of ẏ mesne by.v.s. and ẏ mesne helde but by.xii.d. so that he had more auaũtage by.iiii.s. thã he payd to his lorde, he shal haue the sayd.iiii.s. as a rent Secke yerely of the lorde that purchased the tenauncy.

¶ Also yf a man that hath rent Secke is ones seysed of any parcel of the rent and after yf the tenaunt wyll nat paye ẏ rent that is behynde, this is his remedy. It behoneth him to go by him selfe or by another to the landes & tenementes wher of the rẽt is yssuynge & there to demaũde the arreges of the rent, and yf the tenaũt deny to pay it, this denyenge is a disseysyn of the rent. Also yf the tenaunt at the tyme be nat redy to pay it, this is a denyenge & a disseysyn. Also yf the tenaũt nor none other be dwellynge vpon the landes or tenementes whã he asketh the arrerages. &c. this is a denyenge in lawe & a disseysyn in dede, & of suche disseysyns he may haue an assyse of Nouel dysseysyn agaynst the tenaunt and recouer the seysyn of the rent and the arrerages and his damages and costes of his wryt and of his ple. &c. And yf after suche recouere the rent be another tyme denyed hym, than he shall haue a Dysseysyn and recouer double damages. And it is to be had in mynde that this name assyse is Equiuocum

☞ Remedy.

Assise

uocum. For sometyme it is taken for a iure, for in the begynnynge of ẏ recorde of assyse of Nouel dysseysyn the recorde shal begin thus (Assisa ven̄ recogn̄) whiche is to say that Juratores ven̄ recogn̄, and the cause is for this that by the wryt of Assyse it is cōmaunded to the shyryfe qd̄ faciat. xii. liberos & legales hoīes de vicineto. &c. videre tenementum illud et noīe eoꝝ in breuiari, & quod sum̄ eos, ꝑ bonos sum̄ ꝙ sint coram iusticiariis. &c. ꝑati inde facere recogn̄. &c. And for thys that byforce of suche an oryginall wryt a panell by force of the same wryt ought to be returned. &c. it is sayd in the begynnynge of the recorde in assyse, Assisa ven̄ recogn̄. &c. Also in a wryt of Ryght it is comonly sayd that the tenaunt maye put him in god and the great Assyse. &c. Also there is a wryt in the Regyster called de magna Assisa eligenda, so is this a good profe that thys name assyse sometyme is put for the iury, and sometyme it is takē for all the wryt of Assyse, and after that entent it is most properly & most comonly taken as assyse of Nouell disseysyn is taken for all the wryt of assyse of Nouel disseisin. In the same maner assyse of comon pasture is taken for all the wryt of Assyse of comon pasture & assyse of Mort dauncester and assyse of Darreyn present-

Equiuocum.

ment

ment.&c. But it semeth that the cause is why suche wrytes at the begynnynge were called assises, for this that by euery suche wryt it is comaunded to the shyryfe that he somon.xii.&c. whiche is asmuch to say that he ought to somon a iury.&c. And sometyme assyse is taken for an ordynaunce for to set certayne thynges in a certayne rule & disposycion, as an ordynaunce that is entred in the aūcyent estatutes is called Assisa panis et seruicie. Also yf there be lorde and tenaunt and ꝑ lorde graunteth the rent of his tenaūt by dede to another sauynge to him ꝑ other sernyce, and the tenaunt atturneth, this is a rent Secke as it is aforesayd. But yf the rent be denyed him at the next day of paymēt, he hath no remedy for this that he had nat therof any possessyon. But yf the tenaūt whā he atturneth to thegraūt or after wyll gyue a peny or an halfpeny to the graunte in the name of seysyn of rent, than yf after at the next day of payment the rēt be denyed him he shal haue Assyse of Nouel disseysyn, and so it is yf a man graunt by hys dede a perely rent yssuynge out of his lande to another &c. If the grauntour than after paye to the graunte. i. d. or an halfpeny in the name of season of the rent, than after the fyrſt day of payment the rent be denyed, the

graunte

graunte may haue Assyse or els nat. Also of rent Secke a man may haue Assyse of Mortdaũcester, or a wryt of Ayle or Cosynage and al other maner of accyons reals as the case lyeth as he may haue of any other rent.

¶ Also there be.iii causes of disseisin of Rent seruyce, that is to say Rescous, Repleuyn, & Enclosure. Rescous is whan ẏ lorde distrayneth in the lande holden of him for his rent behynd yf the distres be rescued fro him, or the lorde come vpon the lande & wolde distrayne & the tenaũt or another man wyll not suffre hym. &c. Repleuynge is whan the lorde hath dystrayned, & repleuyn is made of ẏ distres by wryt or by playnt &c. Enclosure is yf the lande and tenementes be so enclosed that the lorde may not come within the landes and tenementes for to dystrayne and the cause why such thynges so done be disseysyns made to ẏ lorde, is for this by suche thynges the lorde is dysturbed of the meane by which he ought to haue come to his rent. And.iiii. causes be of disseysyn of rent Charge, yᵗ is to say rescous, repleuyn, enclosure, & denyer, for denyeng is a disseisyn of rent Charge as it is aforesayd of rent Secke, &.ii. causes be of disseisin of rẽt Secke, that is to say enclosure, & denyer, & yet it semeth that

Thre maner of disseisyn.

there

there is another cause of disseysyn of all the.iii.rentes aforesayd, that is whan ẏ lorde is goynge to the lāde holden of him for to dystrayne for the rent beynge behynde, & the tenaūt herynge this encoūtreth him & forstalleth him in the way w̄ force & armes, and manaseth him in such forme ẏ he dare nat come to the lāde for to dystrayne for his rent behynde. &c. for doubte of death or bodyly hurt, this is a dysseysyn for this yᵗ the lorde is dysturbed of ẏ meane wherby he ought to come to his rent, & so it is yf by suche forstallynge and manassynge he that hath Rent charge or rēt Secke is forstalled or dare nat come to ẏ lāde to aske ẏ rent behynde

¶ The thyrde boke.

☞ Parceners. Cap.i.

Diuisio Parceners by the comune lawe.

Parcenes be in two maners that is to say parceners after the course of the comon lawe, & parceners after the custome, parceners after ẏ course of the comon lawe, be where a man or a woman be seased of certayne lādes or tenemētes in Fee symple or Fee tayle & hath no issue but daughters & dyeth & the tenemētes discende to the daughters, & the daughterrs enter into the lādes & tenemētes so to them discended

cended, thā they be called parceners & be but one heyre to theyr aūcester, & they be called ꝑceners for this ẏ by the wryt that is called Breue de perticipatione faciēda the lawe wyll cōstrayne thē that ꝑticion shalbe made amonge thē, & yf there be.ii. daughters to whome the lāde discēdeth, then they be called.ii. ꝑceners, & yf they be.iii. daughters, they be called.iii. perceners, &.iiii. daughters.iiii. ꝑceners & so forth, & yf a man seased of lādes in Fee symple or in Fee tayle & dye wout yssue of his body, & the tenemētes discende to his systers, they be ꝑceners as is aforesayd. In the same maner it is where he hath no systers but the lāde discēdeth to his auntes, they be ꝑceners, but yf a man haue but one daughter she maye nat be sayd percener but daughter & heyre. And it is to wyt that particyon betwene perceners maye be made in dyuers maners, one is whā they agre to make ꝑticyon & make ꝑticion of the tenemētes, as yf ther be.ii. ꝑceners to deuyde betwene thē the tenemētes in.ii. ꝑtes euery part by hym selfe in seueralte of euen value, & yf ther be.iii. ꝑceners to deuyde ẏ teñtes in.iii. ꝑtes in seueralte. Another ꝑticion there is to chose by agrem̄t betwen thē & certayn of their frēdes to make ẏ ꝑticion betwen thē of the lādes & tenemētes in the forme

Dyuers maners

aforesayde

afozesayd. And in suche cases after suche
particyon, the elder daughter shall chose
fyrst one of the partes so deuyded which
she wyll haue for her part. And than the
seconde daughter after her another part,
&c. yf it so be that there be many systers.
&c. yf it be not that they ne be otherwyse
agreed betwene thē, for it may be agreed
betwene thē, that one of them shall haue
suche tenementes & another suche tene-
mentes. &c. without any suche fyrst elec-
cyon. & the part that the elder syster hath
is called in latin enitia pars, but yf the p
ceners agree yt the elder sister shal make
particyon of ꝑ tenementes in the forme
afozesayd, and yf she do, than it is sayd ꝑ
the elder suster shal chose the last part af
ter eche of her other systers. Another pa-
ticyon and a lottynge there is as yf there
be. iiii. parceners and after suche partye-
cyon made of the landes, euery parte of
the lande is by it selfe wrpten in a lytell
scrowe and is couered all in waxe in ma
ner of a lytell ball so that no man may se
the scrowe, thā is the. iiii. balles of waxe
put in a bonet to kepe in the handes of an
indifferent man, & then the elder daugh
fyrst shal put her hande in the bonet whi
che shal take a ball of waxe & the scrowe
within the same ball for her purperty, &
than the seconde syster shal put her hāde
in the

enitia pars.

in the bonet and shal take another, and so then the thyrde syster the thyrde ball. &c. And in this case it behoueth eche of thē to holde thē to theyr chaunce & alotment

¶Also another particion there is as yf there be .iiii. parceners and they wyl nat agre that particion shalbe made betwen them, than one of them may haue a writ de Participatione facienda agaynst the other .iii. systers, or .ii. may haue a writ of Participatione faciendā agaynst the other or the .iii. agaynst the .iiii. at the eleccion, & whan iudgement shalbe gyuen vpon suche a writ, the iudgement shalbe suche the particion shalbe made betwene the parties and the shyryfe in his proper person go to the landes and tenementes. &c. and that he by the othe of .xii. true men of his baylywyke. &c. shall make pticion betwene the partyes the one partye of the same landes shalbe assygned to the playntyfe or to one of the playntyfes, and another part to another. &c. nat makynge mencyon in the iudgemēt of the eldest syster more than of the yongest, & of the particion that he hath, this done he shal make notice to the Justices. &c. vnder his seale and the seales of the .xii. &c. and so in this case ye maye se that the elder syster shall nat haue the fyrst eleccion. &c. but the shyryfe shall assygne the parte that the shall

*Judgement

haue.&c. And it maye be that the shyryfe wyll assygne fyrst a parte to the yonger syster & the last part the to the elder. And note wel that particion by agrement by twene pceners may by the lawe be made amonge them aswell by worde without
M.3. dede as by dede.
E.4. ¶ Also yf.ii. meses discende to.ii. perceners, and the one mese is worth by yere xx.s̄. and that other but.x.s̄ by.yere. In this case particion may be made betwen thē in suche forme that the one parcener shal haue the one mese, and the other parcener shal haue the other mese, & he that shall haue the mese of.xx.s̄. & his heyres shall paye a yerely rent of.v.s̄. yssuynge out of the same mese to the other percener & to his heyres for euer, bycause that euery of them shal haue euen in value, & suche particyon made is good ynoughe, and the same percener that shal haue the rent of.v.s̄. and his heyres may dystrayn for the rent of comon ryght in the same mese of the value of.xx.s̄. yf the rent.v.s̄
*Rent charge be behynde at any tyme in whose handes so euer the same mese cometh thoughe there was neuer wrytynge made of it betwene them, in the same maner it is of particyon of all maner of landes & tenementes.&c. where suche rent is reserued to one or to dyuers parceners vpon such particyon

particyon.&c. But suche rent is not rent Seruyce, but is Rent charge of comon ryght had and reserued for egalty of the particyon. ☞ And note well that none be called parceners by the comon lawe, but women or the heyres of women, and whiche come by landes and tenementes by dyssent, for yf systers purchase landes or tenemētes of this they bē called ioynt mentes and nat parceners. Also yf.ii. par ceners of lande in fee symple make parti cyon betwene them &c. and in the parte of that one valueth much more than the part of the other, yf they were at ẏ tyme of partycyon of full age, that is to say of xxi. yere, than they alway shal abyde and neuer be defeted, but yf tenemētes wher of be made ꝑticions be to thē in fee tayle and the parte of that one hath is muche better in yerely value than the part of ẏ other. Howbeit that they be excluded du ryngе theyr lyues to defete the particion yet yf the ꝑcener that hath the lesse parte in value hath issue & dyeth, the issue may disagre to the particion & entre and occu py in comon that other part that alotted to her aunte, and so the aunte may entre and occupy in comon that other part al= lotted to her syster as no particion ther= of had be made. &c.

¶ Also yf.ii. parcenees of tenementes in

fee take husbandes and they & theyr husbandes make particion betwene them yf the part of the one be lesse in yerly value then the parte of that other durynge the lyues of the husbādes the particion shalbe in his force and strength, yet after the deth of the husbande the wyfe that hath the lesse part. &c. the same wyfe or womā may entre in her systers parte as it is aforesayd & defete the particion, but yf ẏ particyon so made betwene them were suche that at tyme of lotment were egall of yerely value, than it may nat after be defeted in suche cases.

¶ Also yf there be. ii parceners and the yonger of them be within the age of. xxi. yere, and particion is made betwene thē so that the part that is alotted to theyonger is lesse in value then the part of that other. In this case the yonger durynge the time of her nonage, and also whā she cometh to full age of. xxi. yere may enter in the porcyon of her syster alotted. &c. & defete the particion, but such a percener ought to take hede whan she cometh to full age that she ne take to her owne vse al the profytes of that tenementes to her alotted, for that she agreeth to the partycyon at suche age, in whiche case the pertycion shal stande and abyde in his force and strength. &c. But parauenture the ꝓfytes

Cautio.

fytes of the halfe she may take, leuynge the profytes at the other halfe to her syster. &c. yet it is to wytte that whan it is sayd males and females of full age, that shalbe vnderstanded of. xx. yere, for yf any feoffement or graunt, relese, cōfyrmacyon, oblygacion or any other wrytynge before any suche age be made by any of them. &c. or that any within suche age be baylyfe or receyuer with any man. &c. all is for nought and may be auoyded Also a mā before suche age shal nat be sworne in no iury nor in no inquisicion. Also yf tenementes be gyuen to a man in ŷ tayle whiche hath as muche lande in fee symple & hath issue. ii. daughters and dyeth, and the daughters make partycyon betwene them, so that the lādes in fee symple be alotted to the yonger daughter in alowaunce of the tenementes tayled, alotted to the elder daughter, if after such particion the yonger daughter alyeneth the lande in fee symple to another in fee and hath yssue a sonne or a daughter and dyeth, the yssue may entre in the tenemētes tayled and them to holde in properte with theyr aunte, and this is for. ii. causes. One is for that, that the yssue maye haue no remedy of the lande alyened by his mother for that, that the lande was to her in fee symple, & in so much that he

Indulgentia iuris in puple los.

* Two causes.

is of the heyres in the tayle, & hath no thynge recompensed of that, that to hym belongeth of the tenementes tayled, and namely whan such particion maketh no discontynuaunce of the tayle as shalbe sayd here after in the chapter of discontynuaunce. But the contrary is holden. M.10.D.6. That is to say that they may nat entre vpon the pcener that hath his lande tayled, but is set to his Formedon Another cause is for that, that it shalbe a rected the folp of the elder syster that she wolde agree to the partycyon, where she myght haue had halfe ꝑ lande in fee symple and halfe of the tenemẽtes in ꝑ tayle for purpartye and so to be sure wout damage. &c. Also if a mã seased in a ploughe lande by iuste tayle & dyeseseth an infant within age of another ploughe lãde and hath yssue. ii. daughters and dyethe seased of both those ploughe landes, the infant than beynge within age and the daughters entre & make partycyon that the one ploughe lande is lotted to ꝑ purparte of the one as parcase to the yonger syster in alowaũce of that other ploughe lande that alotteth to the purparte of ꝑ other, so that after the infant entreth in the ploughe lande of the whiche he was dissesed vpon the possessyon of the parcener that hath the same ploughe lande,

than

than the same parcener may entre into ꝑ other ploughe lande that the syster hath and holdeth in parcenary with her, but yf ꝑ yonger syster alyen ꝑ same ploughe lande to another in fee symple before the entre of the infant, & after the chylde entreeth vpon the possessyon of the alyene, thā she may not entre in ꝑ other plough lande, for this that by her alyenacion she hath vtterly dismysed her selfe to haue any part of the tenementes as parcener, but yf the yonger syster before the entre of the infant make therof a lease for tme of yeres or for terme of lyfe or in fe tayle saynge the reuercyon to her, and after the chylde entre there, parauenture it is otherwyse, for this ꝑ she dysmysed not her selfe of all that, that was in her, but hath reserued to her the reuercyon and the fee fee symple. &c.

Also yf there be.iii. or.iiii. parceners that make partycyon betwene them, yf the parte of one parcener be defeted by suche lawfull entre she may entre & occupy the same other lādes of al the other pceners, & cōpell thē to make newe partyes of the other landes betwene them. &c.

Also yf there be.ii. parceners, and the one taketh an husbande, and the husdāde and the wyfe haue yssue betwene them, and ꝑ wyfe dyeth & the husbande holdeth

him in the halfe as tenaunt by the curtesye. In this case the parcener that suruyueth and the tenaunt by the curtesy may well make partycion betwene them. &c. And yf tenaunt by the curtesy wyll nat agre to make particion, than the parcener that suruyueth may haue a wryt de Participatione facienda. &c. and compel him to make partycion But yf the tenaũt by the curtesy wyll haue partycion made betwene them and the parcener that suruyueth wyll not haue it, than the tenaunt by the curtesy shal haue no remedy for to haue partycion, for he maye nat haue a wryt de Participacione faciẽda, for this that he is nat parcener, for suche a wryt lyeth for parceners al onely. And so may ye se that the wryt de Participatione facienda lyeth agaynst tenauntes by ẏ curtesy, and yet him selfe may nat haue such a wryt.

P.5. E.3.

¶ Parceners by the custome. Capi. ii.

Parceners by the custome be where a man seased in Fee tayle of landes or tenementes ẏ be of the tenure called Gauelkynde within the shyre of Kent, & hath yssues dyuers sonnes & dyeth, suche landes and tenementes shall discende to all the sõnes by the custome, & they euẽly shal enheryte & make particyon betwene them by the custome as females do, and a

Gauelkynde

wryt

wryt de Participatione faciēda lyeth in this case as betwene females, but it behoueth in the declaracyon to make mencyon of the custome. Also suche custome is in other places in Englande, and also suche custome is in Northwales.

¶ Also there is another partycyon that is of another nature & in another forme than any of the ꝑticyons aforesayd, as a man seased of certayne lādes in fee symple hath yssue.ii.daughters, & the elder is maryed, and the father gyueth parcell of the same landes to the husbande with his daughter in franke maryge & dyeth seased in the remenaunt the which is of more and greater value by yere than be the landes gyuen in franke maryage.

*Particio alia a superioribus.

¶ In this case the husbande & the wyfe shal haue nothynge for theyr part of the sayd remnaūt, but yf they wyll put theyr landes gyuen in franke maryage in Hotchepot with the remenaunt of the lande with her syster, and yf they wyll nat do so, thā the yonger syster may occupy the same remenaunt and take to her the profytes only, and it semeth that this worde Hotchepot is in Englysshe a puddynge, for in suche a puddynge is nat comonlye put one only thynge, but one thynge wā nother, and for this that it behoueth in suche case to put the lādes gyuē in frāke

marpage with the other lãdes in Dotch-
pot if the hulbande & the wyfe wyl haue
any thynge in the other remenaunt. &c.
This worde Dotchpot is but a terme of
symplytude, and is as muche to say as to
put the landes gyuen in franke marpage
and other landes in fee symple. &c. togy-
ther, and this is to such intent to accõpt
the value of all the landes, that is to say,
of the lãdes gyuen in franke marpage &
the remenaunt, that was nat gyuen and
thã partycion shalbe made in this forme
that ensueth. As put case that a man sea-
sed of. xxx. acres of lãde in fee symple eue
ry acre in value. xii. ð. by the yere which
hath yssue. ii. daughters, and the one is
couert baron, and the father gyueth. x. a-
cres of the. xxx. acres to the hulbande w
his daughter in franke mariage & dyeth
seased of the remenaunt, than the other
syster shall entre in the remenaunt, that
is to say, in the. xx. acres & shal occupy it
to her owne vse, except the hulbãde and
the wyfe wyll put theyr x. acres euen to
them in franke marpage with the other
xx. acres in Dotchpot, that is to say togy
ther and than whã the value is knowen
of euery acre, that is to say, euery acre is
yerely worth. xii ð thã the particion shal
be made in such forme, that is to say, that
the hulbande & the wyfe shal haue aboue
the

the.x.acres gyuen to them in franke ma=
ryage.v.acres in seueralte of ẏ.xx.acres
and that other syster shal haue the reme=
naũt,that is.xv.acres of the.xx.acres for
her part so that accomptinge the.x.acres
that the husbande and the wyfe had in
frãke maryage, and the other.v.acres of
the.xx.acres,the husbande and the wyfe
haue as much in yerely value as that o=
ther syster hath,and so alway vpon such
partycyon the landes gyuen in frãke ma
ryage abyde to ẏ doners or to theyr hey=
res.&c.after the forme of the gyft &c. For * Nota
yf ẏ other parcener shulde haue nothyng
of this that is gyuen in franke maryage
of this shulde folowe an inconuenyence
and a thynge agaynst reason whiche the
lawe wyll nat suffre.&c. And the cause
why the lãdes gyuen in franke maryage
shalbe put in Hotchpot is this,that whẽ
a man gyueth landes and tenementes in
franke maryage with his daughter or w
his other Cosyn,it is to vnderstande by
the lawe that suche gyfte made by suche
wordes franke maryage is an auaunce=
ment of his daughter or of hyscosyn, &
namely whã the donour and hys heyres
shal nat haue any rent nor seruice of him
excepte fealte vnto the fourth degree be
passed.&c . And for such cause the lawe is
that she shal haue nothynge of the other
landes

landes and tenementes discended to the other parceners.&c.but yf she wyll put ꝑ tenementes gyuen in franke marpage in Hotchpot as is aforesayd and yf he wyl nat put the landes gyuen in franke marpage in Hotchepot,than she shall haue no thynge in the remenaunt for this that it shalbe vnderstãde by the lawe that she is sufficyently auaunced, to which auaũcement she agreeth and holdeth her cõtent and the same lawe is in this matter betwene the donees in frãke marpage and the other parceners as to put in Hotchepot.&c.the same lawe is betwene ꝑ heyres of the donees in franke marpage and the parceners.&c.yf the donees in frãke marpage dye before their auncesters or before suche partycyon.&c. as to put in Hotchepot.&c. And note well that gyft in franke marpage was the comon lawe before the statute of Westm.2.and alway after so hath ben vsed & contynued.&c.

¶Also such puttynge in Hotchepot.&c. is where lãdes or tenementes that were gyuen in franke marpage discende fro ꝑ donours in franke mariage all onely for ꝑ the landes discende to the daughters by the father the donoure, or by the mother the donour,or by the brother the donour,or other auncesters & nat by the donour.&c.ther it is otherwyse,for in such

case

case she to whom suche gyft in frāke ma=
ryage is made shal haue her part as yf no
suche gyfte in franke maryage had bene
made, for this that she was nat auaunced
by him. &c. but by another.
☞ Also yf a man seased in. xxx. acres of
lande euery acre of euen yerely value ha=
uynge in yssue two daughters as it is a=
foresayd, and gyueth of this to the hus=
bande of the daughter. xv. acres in frāke
maryage and dyeth seased in the other.
xv. acres, in this case the other syster shal
haue the. xv. acres so discēded to her one=
ly, & the husbande and the wyfe shall nat
put in suche case the. xv. acres to him gy=
uen in franke maryage in Hotchepot. &c.
for this that ẏ tenementes gyuen to him
in franke maryage be of as good yerely
value as the other landes discended. &c.
For yf the landes gyuen in franke mary=
age were of as euen value as the reme=
naunt or of more value, than in bayne
and to none entent such landes gyuen in
franke maryage shalbe put in Hotchpot
&c. for this that she maye haue nothynge
of the other landes discended. &c. For yf
she shulde haue any parcell of the other
lādes discēded thā shulde she haue more
in yerely value than her sister. &c. which
the lawe wyll nat. &c. And as it is sayde
in the cases aforesayd of two daughters
or

or.ii. parceners, in the same maner and in lyke case is, where there be mo systers after that as the case & the matter is. &c. And it is to wete that landes & tenementes gyuen in franke mariage shal nat be put in Hotchepot but with the lādes discended in fee symple, or of lādes discēded in fee tayle, partycion shalbe made as yf no suche gyft in franke mariage had ben made. Also no landes shalbe put Hotchepot with other, but lādes that be gyuen in franke mariage all onely. For yf any woman haue any other lādes or tenemētes by any other gyft in the tayle shal neuer put suche lande so gyuen in Hotchepot. &c. but she shall haue her part of the remenaunt discended. &c. that is as much as the other parcener shal haue of ỳ same remenaunt.

¶ Also another ptycion may be made betwene parceners that barreth from the partycions afore sayde, as yf there be. iii. parceners and the yongest wolde haue ptycion, and the other two wolde nat, but wyll holde in parcenary that, that to thē belongeth without partycion. In this case yf one part be alotted in seueralte to the yongest syster after that, ỳ she ought to haue than the other may holde the remenaunt in parcenary and occupy in comon without partycion yf they wyl and

Parceners by the custome. Fo.lxiii. such partycion is good ynoughe. And yf after the elder & myddyll parcener wyll make partycion betwene them of that, that they holde, they may wel do so whā they please. But where partycion shalbe made by force of a wryt de Participatione faciendā. &c. there otherwyse it is for there it behoueth that euery parcener haue hys part in seuralte. &c. More shalbe sayde of parceners in the Chapter of Joyntenauntes, & also in the chapiter of tenauntes in comon. &c.

¶ Joyntenauntes. Cap. iii.

Joyntenauntes be as a man seased of certayne landes or tenemētes. &c. and therof hathe enfeoffed two or thre or foure, or more to haue & to holde to them and to theyr heyres, or to haue & to holde to them for terme of theyr lyues, or for terme of anothers lyfe, by force of which feoffement they be seased, such be Joyntenauntes.

¶ Also yf. ii. or. iii. dyssease another of any lādes or tenemētes to theyr owne vse than the disseysours be Joyntenauntes. But if they disseyse another to the vse of one of them, than be they no Joyntenauntes, but he to whome the vse of the disseysyn is made sole tenaūt, & the other haue nothynge in the tenaūcy but be called coadiutours to ỹ dysseysyn. &c.

And

Disseisi ☞ And note well that dysseasyn is properly where a man entreth in any lādes or tenementes where his entre is nat lefull, & putteth him out ẏ hath the franke tenement. &c. And it is to wete that the nature of Joyntenauncy is that he that suruyueth shal haue only the hole tenaūcy after suche estate ashe hath yf ẏ ioyntenure be contynued. &c. As yf. iii. Joyntenauntes be in Fee symple and the one hath yssue & dyeth, yet they that suruyue shal haue the tenemētes hole, & the yssue shal haue nothynge. And yf the seconde ioyntenaūt haue yssue & dye, yet ẏ thyrd that suruyueth shall haue the tenemētes hole, & shall haue them in Fee symple to him and to his heyres, but otherwyse it is of parceners, for yf. iii. parceners be, & before any partycyon the one hath yssue and dyeth, that, yt to him belongeth shal discende to his yssue, & yf suche a ꝑcener dye without yssue, than that, that to her belongeth shal discende to her heyres, so that they shall haue this by discent & nat by the suruyuour as ioyntenaūtes haue. &c. And as the suruyuour holdeth place amonge Joyntenauntes. &c. In the same maner he holdeth place amonge thē that haue ioynt estate or possessyō with other of catel royall or catell parsonal. As yf a lease of landes or tenementes be made to many

Maxie.

Dyuersyie.

many for terme of yeres he that suruy=
ueth of the lesses shal haue the tenemẽtes
hole to him durynge the terme by force
of the same lease. And yf a horse or other
catell parsonal be gyuen to many mo, he
that suruyueth shal haue thẽ to him selfe

In the same maner it is of dettes and
dutyes. &c. For yf an oblygacyon be made
to many for one duty, he that suruyueth
shal haue all ẏ dette, and so it is of all o=
ther couenauntes and contractes.

¶ Also some ioyntenauntes may be that
may haue Joynte estate and be Joynte=
nauntes for terme of theyr lyues, and yet
they haue seuerall inherytaũces As that
lãdes be gyuen to two men & to the hey=
res of theyr two bodyes engendred. In
this case the donees haue Joynte estate
for terme of their two lyues, & they haue
seuerall inherytaunce. For yf the one of
the donours haue yssue & dye, the other
that suruyueth shall haue all by the sur=
uyuour for terme of his lyfe. And yf he ẏ
suruyueth hath also yssue & dye, than the
yssue of the one shal haue the halfe of the
lãde, and the yssue of the other shal haue
that other halfe of the lande, & they shal
holde the lande betwene them in comon
and be nat Joyntenauntes but tenaũtes
in comon. And the cause that such dones
in such cases haue Joynte estate for tme

of theyr lyues is this, for this that at the begynnynge landes were gyuen to them two, which wordes wout more sayenge make a Joynt estate to them for terme of theyr lyues. For yf a man wyll let lande to another by dede or without dede nat makynge mencyon what estate he hath, and of this maketh lyuery of seasyn. In this case the lessee shall haue estate for terme of his lyfe, and so in so much that the landes were gyuen to thē, they haue a joynt estate for terme of theyr lyues, & the cause why they haue seuerall inheryt aunce is this, in so much that they can nat by possibilite haue an heyre betwene them engendred as a mā & a woman may haue. &c. Then the lawe wyll that theyr estate & theyr inheryptaunce shalbe suche as reason wyl, after the forme and effect of the wordes of the gyft, and that is to the heyres that the one engēdreth of his body by any of his wyues & the heyres þ the other engendreth of his body by any of his wyues. &c. So it behoueth by necessyte of reason, that they shall haue seuerall inheryptaunce. And in suche case if the yssue of one of the donees after the death of the donees dye, so that he hath no yssue alyue of his body engendred, thā the donour or his heyre may entre in the halfe as in his reuercyon, thoughe the other

other of the donees hath yssue alyue.&c. And the cause is for so much that the inheritaunces be seuered.&c.the reuercion in the lawe is seuered.&c.and the suruyuour of the yssue of the other shal holde no place to haue the hole, and so as it is sayde of males, in the same maner it is where lande is gyuen to.ii.females & to the heyres of their.ii.bodyes begotten.

¶Also yf lande be gyuen to.ii. females and to the heyres of one of them, this is a good ioynture, and the one hath a free holde, and the other hath fee symple, and yf he that hath fee dye, he that hath the fre holde shal haue the hole by the suruyuour for terme of lyfe. In the same maner it is where tenntes be gyuē to.ii.and to the heyres of the body of one of them engendred, the one hath fre holde, & the other fee tayle.

¶Also yf.ii. ioyntenauntes be seased of estate in Fee symple, & the one graūteth a Rent charge by his dede to another out of that, that to him belōgeth.&c. In this case durynge the lyfe of the grauntoure the Rent charge is effectuall. But after his decease the Rent charge is voyde as to charge the lande, for he that hath the lāde by the suruyuour shall holde all the lāde discharged. And ẏ cause is, for thys that he that suruyueth claymeth to haue

the lande by the survyvour.&c. & nat by discent of his felowe.&c. But otherwyse it is of parceners for yt there be.ii. parceners of tenementes in Fee symple, & before any particion the one chargeth that that to him belongeth by his dede of a rēt Charge.&c. and dyeth without yssue, and that, that to him belongeth dyscēdeth to the other parcener, in this case the other peener shall holde the lande charged.&c. for this that he commeth to that halfe by discent as heyre.&c.

¶ Also yt there be.ii. Joyntenauntes in Fee symple within one borough where the lādes and tenementes within ꝑ same borough be deuysable by testamēt, yt the one of the sayd Joyntenauntes deuyse ꝑ, that to hym belongeth by testament.&c. and dye, thys deuyse is voyde. And the cause is, for this that no deuyse may take effecte, but after the death of the deuysour. And for this that by his death all the lande incontynent cōmeth by ꝑ lawe to his felowe that survyveth by the survyvour, which ne claymeth nor hath no thynge in the lande by the deuyse but in hys owne ryght by the survyvour after the course of the lawe.&c. For this cause suche deuyse is voyde.

Deuyse

Marie.

¶ But otherwyse it is of peeners sealed of tenementes deuysable in suche case of deuyse

deuyse.&c. Causa qua supra. Also it is co=monly sayde that euery Joyntenaunt is seased of the lande that he holdeth ioynt ly.&c.throughe and by all. And this is as much to say,that he is seased by euery p=cell and by all &c.and this is true, for in euery parcel & by eche parcel,& by all the landes and tenementes he is ioyntly sea sed with his felowes.&c.

¶ Also pl.ii. Joyntenauntes be seased of certayne landes in Fee symple, and that one letteth that,that to him belõgeth to a straũger for terme of.lx.yere and dyeth within the terme. In this case after his dyssease the lesse may entre and occuppe the halfe to him letten durynge þ terme. &c.thoughe þ lessee neuer had possessyon of it in the lyfe of the lessoure by force of the lesse.&c. And the dyuersyte betwene the cause of the graunt of a Rent charge, and this case is this. For in the graũt of a Rent charge by a Joyntenaunt,the te=nauntes abyde alway as they were afore without that,that any hath anyryght to haue parcell of the tenementes,but them selfe and the tenementes abyde in suche plyght as they were before þ charge.&c. But where a lease is made by a Joynte=naunt to another for terme of yeres.&c. incontynent by force of the lease the lesse hath ryght in the same lãde that is to say

of all that, yt to his lessour belonged, & to haue that by force of ye same lesse duryng his terme. &c. And this is ye dyuersite. &c.

¶ Also ioyntenauntes yf they wyll, may make partycion betwene them, & the partycyon is good ynoughe, but they shall nat be compelled by the lawe to do it, but yf they wyll make partycion of theyr ꝓper wyll & agrement, the partycion shall stande in his strength. P. 3. E. 4.

Dyuersyte.

¶ Also yf a Joynt estate be made of lāde to the husbande and the wyfe, and to the thyrde parson, in this case the husbande and the wyfe haue nat in ye lawe in theyr ryght but the halfe. &c. And the thyrde ꝑson shal haue as much as ye husbāde & the wyfe hath, ye is to say, the other halfe. &c.

And the cause is for that the husbande and the wyfe be but one parson in ye lawe and be in lyke case as yf estate be made to two Joyntenauntes, where the one hath by force of Joynture the one halfe and ye other the other halfe. In the same maner is where estate is made to the husbande and the wyfe and to other. ii. men, in this case the husbande and the wyfe haue nat but the thyrde part, and the other. ii. men the other. ii. partes. &c. Causa qua supra. More shalbe sayd of this matter touchyg Joyntenauncy in the Chapter of tenaūtes in Comon tenaūt per Elegit, & tenaūt

by

by Estatute marchaunt.

¶ Tenauntes in comon. Cap.iiii.

TEnauntes in comon be they that haue landes and tenemētes in Fee symple, Fee tayle, or for terme of lyfe. &c. which haue suche landes & tenementes by seuerall tytle, and nat ioynt tytle, and none of them knowe that, that is seuerall to him. But they ought by the lawe to occupy suche landes & tenementes in comon, and bndeuyded to take the profyttes in comon. And bycause that they come to suche landes & tenementes by seuerall tytles, and nat by one selfe Joynt tytle, & theyr occupacyon and possessyon shalbe by the lawe to be amonge them in comon, they be called tenaūtes in comon as yf a man enfeoffe two Joyntenauntes in fee and the one of them alyeneth that, that to him belongeth to another in fee, nowe the other Joyntenaūt and the alyene be tenaūtes in comon, for this that they be seased in suche tenementes by seuerall tytles, for the alyene cōmeth in the halfe by the feoffemēt of the ioyntenaūt and the other Joyntenaunt hath ꝑ other half by force of the fyrst feoffement made to hym and to his fyrst felowe, & so they be in, by seuerall tytles & by seuerall feoffement. &c. And it is to wyt that whan it is sayd in any boke that a man is seased in

fee, without any more layenge. It shalbe vnderstande fee symple, for it shal nat be vnderstande by suche worde in fee, that a mā is sealed in fee tayle except that there be put therto suche addycyon, that is to say fee tayle.

¶ Also yf. iii. Joyntenauntes be, and the one of them alyeneth that, that vnto him belongeth to another in fee. In this case the alyene is tenaunt in comon with the other. ii. Joyntenauntes. But yet the other. ii. Joyntenaūtes be sealed of the. ii. partes ioyntly, & of these. ii. partes ỹ sur vyuour betwene them holdeth place. &c.

¶ Also yf there be. ii. Joyntenauntes in fee, & the one gyueth that, that vnto him belongeth to another in the tayle, the donee and the other Joyntenaunt be tenaūtes in comon. &c. But yf the landes be gyuen to. ii. men and to the heyres of theyr. ii. bodyes engendred, the donees haue Joynt estate for terme of theyr lyues, & yf eche of them haue yssue and dye, theyr yssues shal holde in comon. &c. But yf lādes be gyuen to. ii. abbottes, as to the abbote of Westm, and the abbote of Saynte Albons, to haue and to holde to them and to theyr successors, in this case they haue incontynent at the begynnynge estate in comon, & nat Joynt estate. And the cause is for this, that euery abbot or other so-

uerayne

uerayne of an house of relygion before that he be made abbot or souerayne, was but a deade man in the lawe. And whā he is made abbot he is as a man ꝓnable in the lawe, alonly to purchase and to haue lādes and tenementes and other thynges to the vse of his house, & nat to his owne ꝑper vse, as other seculer men may. And for this in the begynnynge of theyr purchase they be tenauntes in comon. And yf the one of them dye, the abbot that succedeth shal nat haue al by ꝓ survyvour, but the successour of ꝓ abbot that dyeth, shall holde the halfe in comon with the abbot that survyveth. &c.

¶ Also yf landes be gyuen to an abbot & to a seculer man to haue and to holde to them, that is to say to the abbot and hys successours, and to the seculer mā, to him and to his heyres, they haue estate in comon. Causa qua supra.

¶ Also yf landes be gyuen to two men to haue and to holde, the one halfe to ꝓ one and to his heyres, and the other halfe to the other & to his heyres: they be tenauntes in comon. &c.

¶ Also yf a man seased of certayne lādes enfeoffeth another in ꝓ halfe of the same landes whout any speche or assygnement, or lymytacyon of the same halfe in seuerallye at the tyme of the feoffement, thā

the feoffe and the feoffour shall holde the partyes of the lande in comon. And in ꝑ same maner as is aforesayd of tenauntes in comon of landes or tenementes in Fee symple or Fee tayle. In the same maner may it be sayde of tenauntes for terme of lyfe. As the two Joyntenauntes be in fe, and the one letteth to a man that, that to him belongeth for terme of lyfe, and the other Joyntenaunt letteth that, that to him belõgeth to another for terme of life these two lesses be tenauntes in comon for terme of theyr lyues. ⁊c.

Also yf a man let lãdes to two men for terme of theyr lyues, and the one grauntеth all his estate of that, that vnto him belongeth to another. ⁊c. than that other tenaunt for terme of lyfe and he to whõe the graunt is made be tenauntes in comon duryng the tyme that both lesses be alyue.

And it is to be remembred that in all other suche cases thoughe ꝑ there be nat here expẽsely named or specifyed, if they be in lyke reason, they be in lyke lawe.

Also there be .ii. Joyntenaũtes in fee, and the one letteth that, that vnto hym belõgeth to another for terme of lyfe du ryng his lyfe, and the other tenaũt that dyd nat let, be tenauntes in comon. And vpon thys case a questyon maye ryse, as

this

this. But the case that the lessour hath A ques-
yssue and dyeth leuynge that other ioyn- tyon.
tenaunt his felowe, & leuynge the tenaũt
for terme of lyfe, ꝑ questyon may be such
yf the reuercyon of the halfe. &c. that the
lessour hath, shal discende to the yssue of
the lessour or that the other Joyntenaũt
shal haue it by the survyuour. And some
haue sayd in this case that ꝑ other ioyn-
tenaunt shall haue the reuercyon by the
survyuour, & theyr reason is such, whan
the Joyntenauntes were ioyntly seased
in fee symple. &c. thoughe that one of thẽ
made estate of that, that vnto him belon-
geth for terme of lyfe, and thoughe that
he hath therof franke tenement of that,
that to him belongeth by the lease, yet he
hath nat seuered the fee symple. But the
fee symple abydeth to him ioyntly as it
was before. And so it semeth vnto them
that the other Joyntenaunt that survy-
ueth, shal haue the reuercyon by the sur-
vyuour. &c. And other haue sayd the con-
trary, & this is theyr reason. Whan one
of the Joyntenauntes letteth that, that
to him belongeth to another for terme of
his lyfe, that by such lease the Franke te
nement is seuered frõ the Joynture. And
by the same reason the reuercyon that is
dependant vnto the same franke tenemẽt
is seuered from the Joynture. Also yf ꝑ

lessour

lessour had reserued to him a perely rent
vpon the lease, the lessour only shal haue
the rent. &c. The which is a proofe that þ
reuercyon is onely in hym, & that the o-
ther hath nothynge in the reuercion. &c.
Also yf the tenaũt for terme of lyfe were
impleded. &c. & make defaut after defaut,
than the lessour shalbe onely of thys re-
cepued to defende his ryght, & his felow
in this case in no maner shalbe receyued
which proueth that the reuercyon of the
halfe is onely in the lessour. And so by cõ
sequens, yf the lessour dye leuyng þ lesse
for terme of lyfe, the reuercyon shal dyf-
cende to the heyres of the lessour. &c. and
nat come to the other Joyntenannt by þ
survyuour. Jdeo quere. But in this case
☞ Jn quere. yf the Joyntenaunt that hath the franke
tenement haue yssue and dye leuynge the
lessour & the lesse, than it semeth that the
yssue shall haue the halfe in his demesne
as of fe by discent, for this that the frãke
tenement may nat by nature of the iopn-
ture be anexed to a reuercyon &c. And it
is certayne that he that letted, was sea-
sed of the halfe in his demesne as of fee,
and none shall haue any iopnture in hys
franke tenement. Ergo this shal discẽde
to his issues. Sed quere. But if it be thus
☞ Jn quere. that the lawe in this case is suche, that if
the lessour dye leuynge þ lesse, & leuynge
the

the other Joyntenaunt that hath ꝑ frāke tenement of the other halfe, that the reuercyon shall discende to the yssue of the lessour, than is the Joynture and the tytle that any of them mayhaue by the surupuour by the vyght of the Joynture ad nulled and all vtterly defeted for euer.

¶In the same maner it is ꝑt the Joyntenaunt that hath the frāke tenement dye, leuynge the lessour and the lesse, ꝑt the lawe be suche that his Franke tenement and fee that he hath in the halfe shal discende to his yssue, thā the Joynture shal be defeted for euer. &c.

¶Also ꝑt. iii. Joyntenauntes be, and the one releaseth by his dede to one of his fe lowes al the vyght that he hath in ꝑ lāde than hath he to whō the release is made the thyrde parte of the landes by force of the release, and he & his felowe shal hold the other. ii. ptyes ioyntly. And as to the thyrde parte that he hath by force of the release, he holdeth the thyrde parte with him selfe and his felowe in comon.

¶And it is to wyt that sometyme a dede of release shal take effect & shall be enure to put the estate of him that made the release, to him to whō the release is made, as in the case aforesayd. Relese.

¶And also ꝑt a ioynt estate be made to ꝑ husbande and hys wyfe, and to a thyrde

parson

parson, and the thyrde parson releaseth his ryght that he hath &c. to the husbande than hath the husbande the halfe that the thyrde parson had, and the wyfe of thys hath nothynge. And yf in suche case the thyrde release &c. to ꝑ wyfe, nat namyng the husbande in the release, then hath the wyfe the halfe that ꝑ thyrde parson had. And the husbande hath nothynge of this but in ryght of his wyfe, for this, that in suche case the release shal enure to put ꝑ estate to him to whō the release is made of al that, that belōged to him that made the release. &c. And in some case a release shal enure to put all the ryght ꝑ he hath that made the release to him to whō the release is made. As a man seased of certayne lādes and tenementes is dysseysed by. ii. dysseasours, yf the dysseasy by his dede release all his ryght. &c. to one of ꝑ dissey sours, than he to whom the release is made shal haue & holde al the tenemētes to him onely, and put out his felowe of euery occupacyon of it. And the cause is for this, that the, ii. dysseysours were seysed in the tenementes by wronge by them done agaynst the lawe. And whan one of them getteth the release of him ꝑ had ryght to ētre. &c. This ryght in such case reiseth in him to whome the release is made, and is in suche plyght as yf he

that

that had the ryght had entreds enfeoffed him. &c. And the cause is, for this that he that hath before had an estate by wrõge, that is to say by dysseysyn hath nowe by the release a ryghtfull estate.

¶ And in some case a release shall enure by way of extyngupshement, and in such case suche release shal helpe the Joynte-naunt to whõe the release was nat made as well as hym to whome the release is made. As yf a man be disseysed, & the disseisour maketh a feoffement to .ii. men in fee, yf the dysseysye release to one of the feoffes in fee by hys dede, than suche release shal enure to both the feoffees, for this that the feoffees haue estate by the lawe, that is to say, by the feoffement, & nat by wronge done to any other. &c.

¶ And in the same maner is yf the dysseysour make a lease to a man for terme of lyfe the remaynder ouer to another in fe yf the dysseysy release to the tenaunt for terme of lyfe all his ryght. &c. Thys release enureth as well to hym in the remaynder as to the tenaunt for terme of lyfe &c. And the cause is, for this that tenaunt for terme of lyfe commethe to his estate by the course of the lawe. And for this the release shal enure and take effect by way of extyngupshement of ꝑ ryght of him that hath released &c. And by this

release

releaſe the tenaunt for terme of lyfe hath no greater eſtate than he had before the releaſe made vnto hym, and the vyght of him that releaſed is all vtterly extyncte. And in ſo muche that ſuche releaſe cánat enlarge the eſtate of ꝑ tenaunt for terme of lyfe, it is reaſon that the releaſe ſhall enure to him in the remaynder.&c. More ſhalbe ſayd of releaſes in the Chapter of releaſe.

¶Alſo yf there be.ii.parceners, and the one alyeneth that vnto him belongeth to another, than the other parcener and the alyene be tenaũtes in comon.

¶Alſo tenaũtes in comon may be by tytle of preſcrypcion, yf the one and his aũceſters or they that whoſe eſtate he hath in the halfe, haue holden in comon, the ſame halfe with the other tenaunt that hath the other halfe, and with his aunceſters or them whoſe eſtate he hath as vndeuyded fro tyme wherof no memory renneth.&c. And dyuers other maners a mã may make, and cauſe men to be tenaũtes in comon that be nat here expreſſed.

¶Alſo in ſome caſe tenauntes in comon ought to haue of their poſſeſſion ſeueral accyons, and in ſome caſe they ſhal ioyne in one accyon. For yf there be.ii.tenauntes in comon and they be dyſſeyſed, they ought to haue agayn the dyſſeyſour.ii.

assises and nat one assise, for euery of the ought to haue Assyse of his halfe. &c. And the cause is for this the tenauntes in comon were sealed by seuerall tytles. But otherwyse it is of Joyntenauntes. For yf there be. xx. ioyntenautes and they be dysseysed, they shall haue in all theyr names but one Assyse, bicause that they had but one ioynt tytle.

¶Also yf there be. iii. Joyntenauntes, & one releaseth to one of his felowes all ỹ vyght that he hath, & after the other. ii. be dysseased of the hole. &c. In this case the other shal haue seueral assises in this forme, that is to saye, they shall haue in both theyr names one Assyse of ỹ. ii. partyes. &c. For this that they helde the. ii. partyes ioyntly at the tyme of the dissey syn. And as to the thyrde part he to whō the release was made ought to haue ther of an Assyse in his owne name, for this ỹ as to ỹ thyrde part he is tenaūt in comon &c. for this that he came to that thyrde part, by force of the release & nat only by force of the ioynture.

¶Also as to sue accyons that touche the the realte, there is dyuersyte betwene p̄ceners that be in by dyuers dyscentes, & tenauntes in comon. For yf a man sealed of certayne landes in fee, hath yssue two daughters and dye, and they entre. &c.

and eche of them hath yssue a sonne and dye without partion made betwene them by which the one halfe discendeth to the sonne of the one parcener, and the other halfe discendeth to the sõne of the other parcener, and they entre and occuppe in comon and be dysseased, in this case they shal haue in theyr .ii. names one Allyse, & nat .ii allyses. And the cause is, þ though they come in by dyuers discentes, &c. yet they be parceners, & a wyrt de Participatione facienda lyeth betwene thẽ And they be nat parceners hauynge regarde or respect onely to the seysyn & possessyõ fro theyr mothers, but they be parceners hauynge more respect to the state that discended from theyr graundfather to theyr mothers. For they may nat be parceners where theyr mothers were nat parceners before. &c.

Parceners by dyuers discẽtes dysseysed shall haue in theyr two names one allyse & nat two Allyses

¶ And so to suche respecte & consyderacyon, that is to wyt as to the fyrst discẽt that was to theyr mothers, they haue a title in parcenary, the which maketh them parceners. And also they be but as one heyre to theyr comon aũcestre, that is to say, to theyr graundfather from whome the lãde discẽded to theyr mothers. And for theise cases before partition betwene thẽ. &c. they shuld haue one allyse though they come in by seuerall discentes. &c.

Also

¶ Also yf there be.ii. tenautes in comon of certayne lādes in fee, & they gyue the same lande to another man in the tayle, or let it to another man for terme of lyfe yeldynge an annuyte or certayne rent, & a pounde of Peper, or an Hauke, or an Horse, & they bē seased of these serupces, and after all the rent is behynde & they dystrayne for it and the tenaunt maketh them rescous. In that case as to the rent and the pounde of Peper they shal haue two Allyse, and as to the Hauke and the Horse but one Allyse, and the cause why they haue two Allyses as to the rent and pounde of Peper is this, in so muche yᵗ they were tenautes in comon by seueral tytles and whan they made a gyft in the tayle, or lease for tme of lyfe. &c. saynge to them the reuercyon, & yeldynge to thē certayne rent. &c. Suche reseruacyon is incydent to theyr reuercyon.

¶ And for this that theyr reuercyon is in comon and by seuerall tytles, as theyr possessyon was before theyr rent & other thynges that maye be seuered and were to them reserued vpon the gyft or vpon the lease which be incydent by the lawe to the reuercyon, suche thynges so seuered was of the nature of the reuercyon, whiche reuercyon is to them in comon by seuerall tytles. And it behoueth that

the rent of the pounde of peper whiche may be seuered is to them in comon, by seueral tytles. And of this they shal haue ii. Assyses & euery of them in hys Assyse shall make his playnte of the halfe of the rent & of ꝑ halfe of ꝑ pounde of peper. &c.

But of the Hauke & the Horse which cānat be seuered, they shal haue but one Assyse, for a man may nat make a playnt in assyse of the halfe of an Hauke or of ꝑ halfe of an Horse &c. In the same maner it is of other rentes and seruyces that tenauntes in comon haue in grosse by dyuers tytles.

¶ Also as to accyons personels, tenauntes in comon ought to haue suche accyons personels Joyntly in all theyr names, that is to say of trespas, or of offences ꝑt touche theyr tenauntes in comon. As of brekynge of theyr houses, brekynge of theyr closes and pastures, wastynge and defoulynge of theyr grasse, cuttynge of theyr woode, and to fysshe in theyr pondes, & suche other. In this case tenauntes in comon shal haue one accyon joynt ly and recouer joyntly damages bycause that the accyon is in the personalte and nat in the realte.

Tenauntes in co

¶ Also ꝑ.ii. tenauntes in comon make a lease of theyr tenementes to another for terme of yeres, yeldynge vnto the̅ yerely a certayne

a certayne rent yf the rẽt be behynde.&c. the tenãtes shal haue one accion of Det agaynst the lessee, & nat dyuers accyons for that the accyon is in the parsonalte.

mõ shal haue an accyon of Det.

¶Also tenãtes in comon may make partycyon betwene thẽ yf they wyl, though they shal nat be cõpelled by the law. But yf they make partycyon betwene thẽ by theyr agrement and assent, suche partycyon is good ynoughe, as it is adiudged in the boke of Assyse. 9.3.E.4.

* Participio et cõsensu

¶Also as there be tenauntes in comon of landes or tenementes.&c as is afore sayd. In the same maner there be possessyons and propertyes of Chatell reall & Chatell parsonal. As yf a lease be made of certayne lãdes to.ii.men for terme of.xx. yeres, and whan they be therof possessed the one of the lesses graunteth that, that vnto him belongeth before the terme to another, than he to whom the graunt is made and the other shal holde and occupye in comon.

Tenauntes ĩ comon of chatell.

¶Also yf ii.ioyntenãtes haue ỹ warde of the body and of the lãdes of the chylde within age, and that one of them graunteth to another that, that vnto him belõgeth of the same warde, than the graunt and ỹ other that graunteth nat shal haue and holde it in comon.&c.

☞In the same maner it is of Chatels

parsonels, as yf.ii. haue a ioynt estate by
gyft or by brenge of an Horse or an Ore-
&c. the one of them graunteth that, that
to him belogeth of the same Horse or ore
&c. Than the graunte and he that grau-
ted nat shall haue and possesse suche Cha-
tell parsonell in comon. &c. And in suche
cases where dyuers ploneshath Chatels
als or parsonels in comon, and by diuers
tytles, yf the one of them dye, the other
that survyueth shall nat haue that by the
survyuour. But the executours of him þ
dyeth shal holde and occupy that w̄ him
that survyueth as they testatour dyd or
ought in his lyfe. &c. for thys that their
tytles & ryght in this case were seuerall.
¶ Also in thys case afore sayd yf.ii. haue
estate in comon for terme of yeres, and þ
one occupy all & put the other out of his
possessyon & occupacyon. Than shal he þ
is put out of occupacyon haue agaynst þ
other a writ de Ejectione firme for the
half agaynst þ other. In the same maner
it is where.ii. holde the warde of landes
or tenementes durynge the nonage of a
chylde, yf one put out the other of hys
possession, he that is out shal haue awrit
de Ejectement de garde of the halfe for
this that those thynges be chatels reals
and may be appropryoned and seuered. &c.
But no suche accyon of Trespas, that is
to

to say. Quare clausum suum fregit et herbam suā cōculcauit & cōsumpsit. &c. And suche lyke accyons the one may nat haue agaynste the other, for thys that eche of them may ēre and occupy in comon. &c. throughe & by all the tenementes which they holde in comon. But yf two be possessed of Chatels parsonels in comon by dyuers tytles, as of an Horse or an Ore or a Cowe yf the one take it al to hym self out of the possessyon of the other, the other hath none other remedy, but to take this of hym that hath done to hym the wronge for to occupy in comon whā he may se his tyme.

¶ In the same maner it is of Chatel real that may nat be seuered as in case aforesayd that two be possessyoners of a ward of the body of a chyld within age, yf one take the chylde out of the possessyon of ꝑ other, the other hath no remedye by any accyon by the lawe, but to take ꝑ chylde out of the others possessyon whan he se his tyme. &c.

*The fourme of pleadynge.

Also whan a man in pleadynge wyll shewe a dede of feoffement made vnto hym, or a gyft in the tayle, or a lease for terme of lyfe of any landes or tenementes, there he shal say by force of which feoffement, gyft or lease he was seased. &c.

¶ But where a man wyll pleade a lease or a

Dyuer-
syte.

or a graūt made vnto him of Chatel reall or parsonall, there he shal say parfore of which he was possessed. More shalbe sayd of tenaūtes in comon in the chapter of releases, confirmacyons, and tenaun-tes per Elegit.

¶ Estates vpon a condicyon. Cap. b.

Estates that men haue in landes or tenemētes be in two maners. That is to say, they haue estate vpon condycion in dede or vpon cōdycion in lawe Upon condycyon in dede is, as a man by dede indented enfeoffeth another in fee, reseruynge to him & to his heyres yerely a certayne rent payable at one feast or at dyuers feastes by yere, vpon condycion that yf the rēt be behynde. &c that it shal be leful to the feoffour & to his heyres to entre into the landes or tenementes. &c.

Or yf the lande be alyened to another in fee. to yelde vnto him certayne rēt. &c. And yf it hap that the rent be behynd by a weke after any day of payment of it, or by a moneth, or by halfe a yere after any day of payment, that than it shalbe lefull to ỹ feoffour & to his heyres to enter. &c.

In this case yf the rent be nat payde at such a tyme, or before such a tyme lympted and specyfyed within the condycion comprysed in the indenture, than may ỹ feoffour or hys heyres entre into suche landes

landes or tenementes, and them in hys fyrst estate to haue and to holde, & of his to put the feoffee clene out, and it is called estate vpon condicion, for this that ẏ estate of the feoffee is defensable yf the cõdycyon be nat performed. In the same maner it is yf lãdes be gyuen in ẏ tayle, or let for terme of lyfe, or for terme of yeres, vpon suche cõdycion. &c. But where a feoffement is made of certayne landes reseruynge certayne rent vpon suche cõdycyon that yf the rent be behynde, that it shalbe lefull to the feoffour & his heyres to entre, and the lande to holde tyll they be satysfyed or payde of theyr rent behynde. &c. In thys case yf the rent be behynde and the feoffour and his heyres enter, the feoffe is nat excluded clene out But the feoffour shal haue and holde the lãde and take the profytes tyll that he be satysfyed of the rent behynde. And when he is satysfyed, the feoffe may reentre in the same lande and holde it as he dyd before, for in suche case the feoffour shall haue it, but in maner for a dystresse in ẏ mean tyme tyl he be satysfyed of ẏ rent. &c. shal take the ꝓfytes in ẏ meane tyme

Also dyuers wordes amonge other there be that by vertu of them selfe make estate vpon cõdycyon. One is this worde of condycyon, as A. enfeoffeth B. of cer- Vpon a condycyon.

tayne lande to haue and to holde to the same B. and his heyres vpon condycion that the same B. and his heyres shal pay or do to be payde to the aforesayd A. and to his heyres yerely suche a rent. &c. In these cases without any more sayenge ꝑ feoffee hath estate vpon condycyon. Also

Proviso

yf the condicion were suche. Prouyded alway that the foresayd B. paye or do to be payde to the foresayde A. suche a rent. Or yf they were thus, so that ꝑ foresayd B. pay or do to be payde suche rent. In these cases without any more sayenge ꝑ feoffee hath estate but vpon condycyon, so that yf he performe nat the condicion, ꝑ feoffour and his heyres may entre. &c.

☞ Also other wordes there be in a dede that causeth the tenauntes to be condycyonels as vpon suche a feoffement arett is reserued to the feoffour. &c. and after it is put in the dede that yf it chaunce ꝑ foresayd rent to be behynde in part or in all. &c. that than it shalbe lawefull to the feoffour and to his heyres to entre. And this is a dede vpon condicion. But there is dyuersyte betwene these wordes, yf it chaunce. &c. and the wordes next aforesayd. For this worde yf it chaunce. &c. is nought worthe to such condycyon, but yf it haue these wordes folowynge, that is to say, ꝑ it shalbe lefull to the feoffour

and

and to his heyres to entre. &c. But in these
cases aforesayd it nedeth nat by the lawe
to put such clause, that is to say, that the
feoffour & his heyres may entre. &c. For
this that they maye so do by force of the
wordes aforesayd, bycause they cõcepue
in them selfe in the lawe a condycyon, þ
is to say, that the feoffour & hys heyres
may enter. Yet it is comonly in all suche
cases aforesayd to put suche clauses in þ
dedes, that is to say, yf þ rent be behynde
&c. that it shalbe lefull to þ same feoffour
and hys heyres to entre. &c. And thys is
well done to that entent for to declare &
expresse to the lay men that be nat lerned
in the lawe, the maner and the condicion
of the feoffement. &c. As a man sealed of
lande as of Franke tenement, let þ same
lande to another by dede endented for
terme of yeres, yeldynge vnto hym cer-
tayne rent, it is vsed to put in the dede þ
yf the rent be behynde at the day of pay-
ment by a moneth. &c. That than it shal-
be lawefull to þ lessour to dystrayne. &c.
And yet the lessour may distrayne of co-
mon ryght for þ rent behynde. &c. though
such wordes neuer were set in þ dede. &c.
¶ Also yf any feoffement be made vpon
suche condicyon, that yf the feoffour pay
at a certayne day. &c. xx. li. of money, that
than the feoffour may entre. &c. In thys

Condi-
cio im-
plicita.

case

case the feoffe is called tenaunt in Mortgage, that is as muche to say in Frenche as Mortegage, and in latin Mortim vadium, and in Englysshe a deade pledge. And it semeth ẏ the cause why it is called Mortgage, is for that, that it standeth in doubt yf the feoffour may pay at the day lymytted suche a sūme or nat, & yf he pay nat, than the lande that is put in pledge vpon condycyon for the payment of the money, is gone from him for euer, and so deade as to the tenaunt. &c.

Pignus mortuū

¶ Also as a man may make a feoffement in fee in Mortgage, so may a man make a gyft of the tayle in Mortgage & a lease for terme of lyfe, or for terme of yeres in Mortgage. And all suche tenaūtes be tenauntes in Mortgage after the estate yt they haue in the landes. &c.

¶ Also yf a feoffement be made in Mortgage vpon condycyon that the feoffoure shal pay suche a sūme at such a day. &c. as is betwene them by theyr dede endented accorded & lymytted, thoughe ẏ feoffour dye before the day of payment. &c. Yet yf the heyre of ẏ feoffour paye ẏ same sūme within the daye to the feoffee, or profer him the money, & the feoffe refuseth to receyue it, than may the heyre entre into the landes. And yet the condycyon is, yf the feoffour paye suche a sūme at suche a

day

day.&c. And nat makynge mẽcyon in the cõdicion of any paymẽt to be made by his heyre. But for thys, that the heyre hath interest of ryght in the cõdycion.&c. And the entent was but that the money shuld be payde at the day set.&c. And the feoffe hath no more damage to be payde by the heyre, than thoughe he were payde by ꝑ father.&c. For this cause if the heyre pay the money or sendeth the money at the day set.&c. & the other refuseth it, he may wel entre. But yf a straũger of hys owne head that hath no entereſt.&c. wolde tẽde and pay the money at a day set, the feoffe is nat bounde to receyne it.&c.

And it is to be had in mynde, that in suche case where suche lawfull tender of the money is made, and ꝑ feoffe refuseth to receyue it, wherfore ꝑ feoffour or his heyres do entre.&c. Than the feoffe hath no remedy to haue the money by ꝑ comõ lawe, for thys that it shalbe arected hys owne folye that he refused ꝑ money whã lawful pfer was made of it vnto him.&c.

Also yf a feoffement be made in suche condycyon, that yf the feoffe paye to the feoffour at suche a day betwene them ymytted.xx.li. that thã the feoffe shal haue the lãde to him & to his heyres, and yf he fayle to pay the money at ꝑ day.&c. That than it shalbe lefull to the feoffour or to his

his heyres to entre. &c. And yf after before the day set, the feoffe selleth the lande to another, and therof maketh a feoffement vpon him. In this case yf ꝑ secõde feoffe wyl tender the sume of money at the day set to the feoffour, and the feoffour refuseth it. &c. Than hath the seconde feoffee estate in the lande clerely without condicion. And the cause is for that ꝑ seconde feoffee had interest in the condycion for saluacyon of his tenaunctye. And in thys case it semeth that yf the fyrst feoffe after suche sale of the lande wyl tender the money at the day set. &c. to the feoffour, that shalbe good ynough for the saluacyon of the estate of the seconde feoffe, for this ꝑ the fyrst feoffee was ꝑceyu to the condycyon, and so the tender of any of them is good ynoughe. &c.

In what tyme tẽder shal be.

☞ Also yf the feoffement be made vpon condycyon that yf the feoffour pay a certayne sume of money to the feoffee, that than it shall be lefull to the feoffour and to his heyres to entre. &c. In this case yf the feoffour dy before the day of paymẽt, and the heyre wyll tender to the feoffee the money, such tender is voyde, for this that the tyme within whiche the tender ought to be made is past. For whan the condicion is, that yf the feoffour pay the money to the feoffee, thys is as much to

say

say, that yf the feoffour durynge his lyfe pay the money to the feoffe. &c. And whā the feoffour dyeth, than the tyme of the tēder is past. But otherwyse it is, where a day of payment is lympted, & the feoffour dyeth before the day, than may the heyre tender the money as is aforesayd, for this that the tyme of the tender was nat past by the dath of the feoffour. Also it semeth in such case where the feoffour dyeth before the day of payment if ꝑ executours of the feoffour tēder the money of the feoffe at the daye of payment, the tender is good ynough. And yf the feoffe refuse this, the heyres of ꝑ feoffour may enter. &c. And the cause is, for this that ꝑ executours representhe the parson of theyr testatour. &c. And note well, that al suche cases of cōdicion of payment of certayne sūme in grosse touchynge landes or tenemētes, yf lawfull tender be ones refused, he that ought to pay the money is therof alloyled & clerely discharged for euer after. ¶ Also yf the feoffe in mortgage before the day of payment that shalbe made vnto him make his executours & dye, & hys heyre entreth into the lande as he ought It semeth in thys case that the feoffoure ought to pay the money at the day set to the executours, & nat to the heyre of the feoffe, for this that the money at the be-

gynnynge

gynnynge belonged to the feoffee in ma
ner as a duty. And shalbe vnderstande þ
thestate was made bycause of bozowyng
of the money of the feoffe, oz bycause of
another duty. And foz this the payment
shal nat be made vnto þ heyze of þ feoffe
as it semeth. But the wozdes of the con-
dicyon may be suche þ the payment shal-
be made vnto the heyze as yf the condy-
cion were, that the feoffour pay to the fe
offee oz to his heyzes such a sume at such
a day. &c. There after the deth of þ feoffe
yf he dye befoze the day lymytted, than þ
payment ought to be made to the heyze
at the day set. &c.

¶ Also in such case of feoffement in Mozt
gage, a questyon hath ben demaunded in
what place the feoffour is bounde to ten
der the money to the feoffe at the day set
&c. And some haue sayde that vpon the
lande so holden in Moztgage foz this þ
the condycyon is dependant vpon þ lãde
and they haue sayd that yf the feoffour
be redy vpon the lande to pay the money
at the feast oz daye set, and the feoffe be
nat at that tyme there, that than the feof
four is excluded & discharged of paymẽt
of the money, foz this that no defaut was
in him, but it semeth to some men that þ
lawe is contrary, & that defaut is in him
Foz he is bounde to seke the feoffe yf he
be

Where tender shalbe made.

de thā at any tyme in any maner of place within the realme of Englande. As yf a man be bounde in an obligacyon of.xx.li. vpon condycyon indosed vpon the obligacyon that yf he pay to him to whō the obligacyon is made at such a day.x.li. þ thā the obligacyon of.xx.li. shal lese hys force & shalbe holden for nought, in this case it behoueth him þ made the obligacyon to seke him to whō the obligacyon is made, yf he be within Englande, and at the day set to tender to him the sayde. x.li. &c. And other wyse he forfayteth the sūme of.xx.li. cōprysed within the obligacion, and so it semeth in the other case &c. And though that sūme haue sayde, yt the cōdicion is depēdant vpon lande, yet this is nat proued that the sesaunce of þ cōdicion to be perfourmed ought to be made vpon the lande. &c. No more than yf the condicion were the feoffour shulde do at suche a day. &c. an especyal corporall seruyce to the feoffe nat nampynge the place where the corporall seruyces shulde be done. In this case the feoffour ought to do suche corporall seruyce at the day lymyt to the feoffe in what so euer place in Englande þ the feoffe be yf he wyll haue aduauntage of the condicion. &c. And so it semeth ī that other case. And it semeth to them that it shalbe more pperly sayde

that the estate of the lande is dependant vpon the cõdicion.&c.whiche is asmuch to say,that the condicion is dependaunt vpon the sayd.&c.but enquyre.&c.

¶ But yf a feoffement in fee be made reseruynge to the feoffour an annuel rent, and for defaut of payment a reentre.&c. In this case it nedeth nat to the tenaunt to tender the rent whan it is behynde, but onely vpon the lande, for this that this is a rent goynge out of the lãde, for this is rẽt Secke. For yf the feoffour be ones seled of this rent,& after he cometh vpon the lãde.&c. And the rent is denyed him.&c. He may haue assyse of Nouel disseysyn,for though he may entre bycause of the cõdycion broken,yet he may chose that is to say,to entre or to haue an assise And so is there dyuersyte as to the tẽder of the rent that is goynge out of ỹ lãde, and of tender of another sũme in grosse which is nat goyng out of any lãde. And therfore it shalbe sure & a good thynge for them that wyll make suche feoffemẽt in Mortgage,to put & set a specyal place where the money shalbe payde. And the more specyall that it is put the better it is for the feoffour. As yf A. enfeoffe B. to haue to him & to hys heyres vpon suche condicion,that yf A. paye to B. at ỹ feast of saynt Mychell the archaũgell next comynge in the cathedral churche of saynt

Paule in London win.iiii.houres next before ẏ houre of noone at the same feast at the Rodeloft of the North dore with in the same churche or at any other certayne place within the same church, that thā it shalbe lefull to the foresayd A. and to his heyres to entre. &c. In such case it nedeth nat to seke the feoffe in any other place but in the place cōprysed in the indēture, nor to be there more longer tyme than the tyme specyfyed in the same indēture, for to tender or pay the money to ẏ feoffe. &c.

¶ Also in suche case where the place of payment is lympt, the feoffe is nat boūde to receyue the payment in none other place, but in the place so lympted. But yet yf he receyue the payment in any other place, thys is good ynoughe and as stronge for the feoffour as yf the receyte had ben in the same place so lympted. &c.

¶ Also in this case of feoffement in mortgage, yf ẏ feoffour pay the feffe an horse or a cuppe of syluer, or a rynge of golde, or any other suche thynge in full satysfaccyon of the money, & the other this receyueth, this is good ynough & as strōge as yf he had receyued the sūme of money though ẏ horse, or any of the other thynges be nat the.xx.part worth in value of the sūme of money, for thys ẏ the other Satysfaccion.

hath accepted it in playne and full satysfaccyon'.

☞Also yf a man enfeoffe another in fee vpon condicion that he & his heyres shal yelde to a straūger & to his heyres a yere ly rent of.xx.s. and yf he and hys heyres fayle of payment of this, that than it shal be lefful to the feoffour and to his heyres to entre this is a good cōdicion. And yet in this case though such a yerely rent be called an annuell rent, this is nat yperly a rent, for yf it shalbe rent, it ought to be Rent serupce, Rent charge, or Rent secke and yet it is none of thē, for yf the straūger were sealed of this and after it were to him denyed, he shal neuer haue Assyse of this, for this that it yssueth nat out of any landes, and so the straunger hath no remedy yf any suche yerely payment be had behynde in this case, but that the feoffour & his heyres may entre. &c. And yet yf the feoffour & his heyres entre for defaut of payment, thā such rent is gone for euer. And so suche rent is but a payment set to the tenaunt & to his heyres, þ yf they wyll nat pay this after þ fourme of the endenture that they shal lese their lande by the entre of the feoffour or hys heyres for defaut of paymēt. And in this case it semeth that the feoffee and hys heyres ought to seke the straunger & his

heyres

heyres yf they be in Englande, bycause ẏ no place is lymytted where the payment shalbe made, & bycause that suche rent is nat goynge out of any lande. &c.

☞ And here note well. ii. thynges. One is, that no rent that is ꝓperly sayd rent, may be reserued vpō any feoffemēt, gyft, or lease, but onely to the feoffour or to ẏ lessour or to theyr heyres, and in no maner may be reserued to any straunge parson. But yf. ii. Joyntenātes make a lease by dede indented, reseruynge to the one a certayne yerely rent, yt is good ynoughe to him to whome the rēt is reserued, for thys that he is pryue to the lease & nat a straunger to this. &c. The seconde thyng is, that no entre or a reentre which is al one, may be reserued nor gyuen to any ꝑson, but only to the feoffour or to the donour or to the lessour, or to theyr heyres and suche entre may nat be alyened nor graunted to any parson. For yf a man let landes to another for terme of lyfe by endenture, yeldynge to the lessour & to his heyres a certayne rent, and for defaut of paymēt a reentre. &c. Yf after the lessour by a dede graūt the reuercyon of the lāde to another in fee and the tenaunt for tme of lyfe attorneth. &c. yf the rent after be behynde, the graūt of the reuercyon may dystrayne for the rēt, for thys that ẏ rent

Maxie.

to the reuercion, but he may nat enter in to the lande and put out the tenaunt as ꝑ lessour myght or his heyres yf the reuercyon had ben contynued in them. ꝛc. And in this case the entre is taken away at al tymes, for the graunt of the reuercyon may nat entre. Causa qua supra. And the lessour nor his heyres may nat enter, for yf the lessour may entre, thā he ought to be in his fyrst estate. ꝛc. and that may nat be, for this that he hath from him the reuercyon. ꝛc.

¶ Also yf there be lorde and tenaūt, and the tenaunt make suche a lease for terme of lyfe yeldynge to the lessour and to his heyre suche yerely rent, and for defaut of payment are entre. ꝛc. Yf after the lessour dye without heyre, durynge the estate of ꝑ tenaunt for terme of lyfe by whiche the reuercyon cometh to the lorde by way of eschete, and after the rent of the tenaunt for terme of lyfe is behynde, ꝑ lorde may dystrayne the tenaūt for ꝑ rent behynde, but he may nat entre into the lande by force of the condycyon. ꝛc. For this that he is nat heyre to the feoffour. ꝛc.

¶ Also yf lande be graunted to a man for terme of yeres vpon a condicion, that yf he pay to the graunteour within .ii. yeres yl. marke, that than he shal haue the lāde to him and to his heyres. ꝛc. In this case

yf

yf the graunte entre by force of ẏ graũt, and after he payeth to the grauntour.xl. marke within the two yeres, yet he hath nothynge in the lande, but for terme of the two yeres, for thys that no lyuere of seysyn was to him made at ẏ begynnyng for yf he had Franke tenement and fee in this case bycause he hath performed the condycyon. Than shulde he haue Franke tenement by force of ẏ fyrst graũt where no lyuery of seysyn was made there of, which shulde be agaynst reason. &c. But yf the grauntour had made lyuery of seysyn to the graunte by force of the graunt than hath ẏ graũte the Franke tenement and the fee vpon the same condycyon. &c.

¶ Also yf lande be graunted to a man for terme of.v.yeres vpon condicion that he pay to the grauntour within the fyrst.ii. yere.xl.marke, that than he shall haue fee or els but for terme of the fiue yeres, and lyuery of seasyn is made to hym by force of the graunt. Nowe he hath in Fee symple cõdicyonel. &c. And yf in this case the graunte pay nat to the grauntour the.xl. marke within ẏ same.ii.fyrst yeres, than immedyatly after the same.ii. yeres the fee and the franke tenement is & shalbe adiudged in the grauntour, for this that the graũtour may nat after the.ii.yeres incontynent entre vpon the graunte, for

this that the graunt hath yet tytle by.iii yeres to haue and to occupy the lande by force of the ſame graunt. And ſo for thys that the condycyon of part of the graunt is broken and the grauntour may nat entre, the lawe ſhall put the fee in Franke tenement in the grauntour. For yf ꝑ grauntour in this caſe made waſt, than after ꝑ breakynge of the condicion. ꝛc. and after the.ii. yeres the grauntour ſhal haue his wryt of Waſt, & this is a good proke that the reuercyon is in him. ꝛc. But in ſuche caſe of feoffementes vpon cõdicion where the feoffour may entre lawefully for the condicion broken. ꝛc. There the feoffour hath ꝑ fraūke tenement before ꝑ entre. ꝛc.

Alſo yf a feoffement be made vpõ ſuch condicyon that the feoffee ſhall gyue the lãde to the feoffour, and to ꝑ wyfe of the feffour to haue and to holde to them and to the heyres of theyr.ii. bodyes engendred, and for defaut of ſuche yſſue, to remayne to the ryght heyres of ꝑ feoffour. In this caſe yf the huſbande dye, leuyng the wyfe before eſtate in the tayle made to him, than ought the feoffee by ꝑ lawe to make eſtate to the wyfe, as lyke to the condycyon, & as lyke to the entent of the condycyon as he may make it, that is to ſay, to let the lande to the wyfe for terme of lyfe without empechement of waſt, ꝑ

remaynder

remaynder after her decesse to the heyres
engendred of the body of her husbãde &
hers, and for defaut of suche yssue, the re
maynder to ỹ ryght heyres of ỹ husbãde
And the cause why ỹ lease shalbe made
in this case to the woman sole without
empechement of wast is for thys that the
condicion is, that the estate shalbe made
to the husbande and his wyfe in ỹ tayle.
And yf suche estate had ben made in the
lyfe of the husbande, thã after ỹ death of
her husbande she had had estate in ỹ tayle
sole, whiche estate is without empeche=
ment of wast, and so it is reason that yf
after a man may make estate to the entẽt
of the condicion. &c. that he shal make it.
&c. though that she can nat haue estate in
the tayle, as she myght haue had yf the
gyft in the tayle had ben made to the hus
bãde, & to her in ỹ lyfe of her husbãde. &
¶ Also in this case yf the husbande & the
wyfe haue yssue, and dye before the gyft
in ỹ tayle made vnto him. &c. Thã ought
the feoffe to make estate to the issue & to
the heyres of the father and mother en=
gẽdred, & for defaut of suche yssue &c. the
remaynder to the ryght heyres of ỹ hus=
bande. &c. And the same lawe is in other
cases semblable. And yf suche a feoffour
wyll nat make suche estate whan he is
reasonably requyred by them that ought

to haue estate by force of the condycion, &c. Thā may the feoffour and hys heyres enter. &c.

¶ Also yf a feoffement be made vpon cōdycyon that the feoffe shal enfeffe many men, to haue and to holde to them and to theyr heyres for euer, and all they that ought to haue estate, dye before any state made vnto them, than ought the feoffee to make the estate to the heyres of hym þ ſurvyue of thē to haue & to holde to hym and the heyres of hym that ſurvyued. &c.

¶ Also yf a feoffement be made vpon cōdycyon to enfeffe another, or to gyue in the taple to another. &c. yf the feoffee before the parformynge of the condycyon enfeoffe a straūge person, or make a lease for terme of lyfe, then may the feoffoure or his heyres entre. &c. For this, that he hath dysabled hym selfe to parforme the cōdicion, in so much that he made estate to another. &c. In such maner it is, yf the feoffee before the condycyon parformed, set the same lande to a straūger for terme of yeres. In this case the feoffour or his heyres may entre. &c for this that the feoffe hath disabled him self to make estate of the tenementes accordynge to that, yt was in the tenementes when estate therof was made vnto hym, for yf he wyll make estate accordynge to the condicion

&c.

&c. Than may the feoffe for terme of yeres entre & put out him to whō the estate is made. &c. And to occupy this duryng his terme. And many haue sayde that yf suche a feoffement be made to a man sole vpon the same cōdicyon, and before that he hath parformed the condicyon, he taketh a wyfe, than ỳ feoffour or his heyre may incontynent entre, for this, that yf he hath made estate accordyng to the cōdicion, and after died, his wyfe shalbe endowed and may recouer her dower by a writ of Dower. &c. And so by takyng of a wyfe, the tenauntes be put in another plyte than they were at the tyme of the feoffement vpon condycion, for this that than no suche woman was dowable nor shulde be endowed by the lawe. &c. In ỳ same maner it is, yf the feoffour charge the lande by his dede of Rent charge before the parformyng of the condicyon, or be bounde in a statute Staple, or statute Marchaunt that in suche cases the feoffour and his heyres may entre. Causa qua supra. For who so euer cometh to pertenementes by the feoffement of ỳ feoffe than the tenementes must be lyable and be put in execucion by force of the statut afore sayd. But whan the feoffour or his heyres for the causes afore sayd, haue entred so as they ought as it semeth. &c. Quare.

Than

Than all suche thynges that before such entre myght trouble or incombre the tenementes so gyuen vpon condycyon, as touchynge the same tenemētes be vtterly defeted. &c.

¶ Also yf a mā make a dede of feoffement to another, & in the dede is no condicion &c. And whan the feoffour wyll make to him lyuery of seysyn by force of the same dede, he maketh lyuery of seysyn vpō certayne cōdycyōs. &c. In this case nothyng of the tenementes passeth by the dede, for this that the condicion is nat comprysed in the dede, and the feoffement is of such force, as yf no suche dede had ben made therof. &c.

¶ Also yf a feoffement be made vpō such condicion, that the feoffe shall alyen the lande to no man, this cōdycion is voyde, for thys that whan a man is enfeoffed in landes or tenementes he hath power to alyene them to some parson by the lawe for yf such condicion shulde be good, thā the condicion putteth hym out of all the power þ the lawe gyueth, whiche shulde be agaynst reason, and for this, suche cōdicion is voyde. But yf the condicion be such that the feoffee shal nat alyen to one such nampynge his name, or to any of his heyres or his issues. &c. or such other lyke the which cōdicions taketh nat away all

the

the power of alyenacion of the feoffe.&c.
Than suche condicion is good.
¶ Also yf tenemẽtes be gyuen in ẏ tayle vpon suche cõdicyon that the tenaunt in the tayle, noꝛ his heyꝛe.&c. shal nat alyen in fe, noꝛ in tayle, noꝛ foꝛ terme of others lyfe, but foꝛ theyꝛ owne lyues.&c. suche alyenacyon and condicion is good. And ẏ cause is foꝛ thys, that whan he maketh suche alyenacion and discõtynuaunce, he doth contrary to the entent foꝛ which ẏ statute of Westm̃ the seconde was made by which estatute, the estates in the tayle be oꝛdeyned, foꝛ it is pꝛoued by the woꝛdes compꝛysed in the same statute, that ẏ entent of the makyng of the same statute was, that the wyll of the donour in such cases shulde be obserued. And whan tenaunt in the tayle, maketh suche discontynuaunce, he doth the contrary to that. &c. And also in estates in the tayle of any tenemẽtes whan the reuercion of the fee symple is another parson, whan such discõtynuaunce is made, thã the fee symple in the reuercyon, oꝛ the fee symple in the remaynder, is dyscontynued, and foꝛ to put out that the tenaunt in the tayle shal do no suche thynge agaynst ryght, suche condycion is good, as it is afoꝛesayd.&c.
¶ Also a man may gyue lande in ẏ tayle vpon suche condicion, that yf the tenaũt
in

in the tayle or his heyres alyen in fee, or in tayle, or for terme of anothers lyfe. &c. And also that yf all the issues comynge of the tenaunt in the tayle, be deade with out issue that thā it shalbe lefful to ꝑ donour and to his heyres, to entre. &c. And by suche way the ryght of the tayle may be saued after suche dyscontynuaunce to the issue in the tayle yf there be any, so that by way of entre of the donour or of his heyres the tayle shall nat be defeted by suche condicion, and yet yf the tenaūt in ꝑ tayle in this case, or his heyre make any discōtynuaunce. &c. Be in the reuercion or his heyres after this that ꝑ tayle is determyned for defaut of issue. &c. may entre into the lande by force of the same condycyon, & shall nat be dryuen to sue a writ of Formedon in the reuercyon. &c. ¶ Also a man may nat plete in any accyō that estate was made in fee, in the tayle, or for terme of lyfe vpon cōdicion, but if he bouche a recorde therof, or shewe a writynge vnder seale prouyuge ꝑ same condicion, for it is a comon erndycion a lernynge, that a man by pleadynge shall nat defete any estate of Franke tenement by force of such cōdicion, but yf he shewe the profe of such condicion in writynge &c. except it be in somme especyall cause, but of Chatels reals as of a lease made for

terme

terme of yeres, or of grauntes of wordes made by Wardeynes in chyualry, and of such other. &c. A mā may plede that such gyftes or grauntes were made vpon cōdicion. &c. without shewynge of any wrytynge of condicion, and in the same maner a man may do of gyftes and graūtes of Chatels parsoncls and of contractes parsoncls.

¶ Also though that a man in some accyō may nat plede an accyon that toucheth, & cōserneth frāke tenement wout shewyng of wrytynge therof, as it is aforesayde, yet a man may be holpen vpon such condicion by the verdyt of. xii. men taken at large in assyse of Noueli dysseysyn, or in some other accyon where the Justyces wyl take the verdyte of the. xii. Jurours at large. As put the case that a mā seased of certayne lande in fee letteth the same lande for terme of lyfe, without dede vpon cōdicion to yelde to the lessour a certayne rent, and for defaunt of payment a reentre. &c. by force of which, the lessour is seased as of Franke tenement and after the rent is behynde, by which the lessour entreth into the lande, and after the lesse arrayneth an assyse of Nouel dysseysyn of the lande agaynst the lessour, the which pleadeth that he doth no wronge

ne

ne no dysseysyn, and vpon this the assyse is taken.

¶ In thys case the recognytours of the assyse maye saye and yelde to the Justyces they? verdyte at large vpon all ꝑ matter, as to say, that the defendant was seased, and so seased, let the same lande to ꝑ playntyfe for terme of hys lyfe, to yelde to the lessour suche an annuell Rent payable at suche a feast, and vpon suche condicion that yf the rent be behynde at and suche feast that it ought to be payde, that than it shalbe lefull to ꝑ lessour to entre. &c. dyscharge of which lease, the playntyfe was seased in his demeane, as of Franke tenement, & after the rent was behynde at such a feast in such apere. &c. for which the lessour entred into the lande vpon ꝑ possessyon of the lease and payeth the dystrysyon of the Justyces yf this be a dissesyn done to the playntyfe or nat. And than for this, than it appereth to the Justyces, that thys was no dysseasyn done vnto the playntyfe. In so much that the entre of the lessour was lawful vpō him the Justyces ought to gyue iudgement, that the playntyfe shal take nothynge by his wryt of Assyse. And so in suche case ꝑ lessour shalbe holpen, & yet no wrytynge was neuer made of the condicion, for as well as the iurours may haue knowlege

of

of the condicion that was declared and
reherſed vpon the leſſee. In the ſame ma
ner it is of feoffement in fee or in gyft in
the taple vpon condycyon, though he neuer
wrytynge were made thereof. &c. And as
it is ſayd of aberdyt at large in aſſyſe. &c.
In the ſame maner it is of a wryt of
Entre ſoſided vpō diſſeiſyn, & in al other
accions where the Juſtyces wyll take a
bardyt at large there where the berdyte
at large maketh the nature of the matter
put in the yſſue.
Alſo in caſe where thenqueſt may ſay
they? bardyt at large, yf they wyll take
vpon them the knowledge of the law vp=
on the matter, they may ſay they? bar=
dyt general as is put in they? charge, as
in the caſe afo?eſayd, they may well ſay,
that the leſſour dyſſeaſed nat the leſſe yf
they wyll. &c.
Alſo in the ſame caſe, yf the caſe were
ſuche that after this that the leſſour had
entred fo? defaut of payment. &c. that the
leſſee had entred vpon the leſſour & hym
dyſſeaſed. In this caſe yf the leſſour ar=
rayneth an aſſyſe agaynſt the leſſe, yf leſſe
may barre hym of his aſſyſe, fo? he maye
plede agaynſt hym in barre, howe the leſ
ſour that is playntyfe made a leaſe to the
defendant fo? terme of lyfe, ſaynge the
reuercyon of the playntyfe, the which is

a good plee in barre in so muche that he knowledgeth the reuercyon to be to the playntyfe, and in this case hath no matter to helpe him, but the condicion made vpon the lease, & that he may nat pledge, for that he hath no wrytynge, and in so much that he may nat answere to the bar, he shalbe barred. And so in thys case ye may se that a man is seased and he shall haue no assyse. And yet yf the lessee be playntyfe, and the lessour defendaunt, he shal barre ye lessee by verdyt of the assyse But in this case where the lessee is defendant, yf he wyll not plede the sayd ple in barre, but plede no wronge nor disseysyn thā the lessour shal recouer by assyse. &c. Causa qua supra.

¶ Also bycause such condicions be most comonly put & specyfyed in dedes endēted. Some lytell thynge shalbe sayd here to the my sonne of endētures, & of a dede Pol cōteynynge condicions. And it is to wyt that yf the endēture be by pertite or tripertite or quatripertyte, al the partes and the endenture be but one dede in the lawe, and euery party of endenture is of him selfe of as great force add effect, as al the partyes togyther. And ye makynge of endentures is in. ii. maners. One is to make them in the thyrde parson, another maner is to make them in the fyrst pson.

The

The makynge in the thyrde parson, is as in suche forme.

¶ This endēture made betwene A. of B. of the one part, and C. of D. of the other part, wytnesseth that the forsayde A. of B. hath gyuen and graunted and by this presente dede indēted, hath confirmed to the forsayd C. of D. suche lande to haue &c. vpon the condycyon &c. In wytnes wherof the partiesbeforesayd interchaūgeable haue put to theyr seales, or elles thus. In wytnes wherof, to one parte of this indēture remaynynge with ꝑ sayde C. of D. the forsayd A. of B. hath put to his seale, & to the parte other of the sayd indēture remaynynge w the sayd A. of B the sayd C. of D. hath put to hys seale gyuen. &c. Suche endenture is called indēsure made in ꝑ thyrde pson, for this that the berbes. &c. be in the thyrde pson, and such forme the endēture is the more sure makynge, for this that it is more comonly vsed, the makynge of indentures in ꝑ fyrst parson is in suche forme.

* The fourme of an indenture in the thyrde parson.

¶ To all true chrysten people to whome this presente wrytynge endēted shal come A. of B. gretynge in our Lorde euerlastynge, knowe ye me to haue gyuen and graunted, & by this my presente dede indēted, to haue confirmed to C. of D. suche lande. &c. Or elles thus. Knowe all men ꝑ

An Indenture in the fyrst Pson.

be p̄sent, and them that be to come that J. A. of B. haue giuen & graunted and by this my p̄sent dede endented haue confirmed to C. of D. suche lande &c. to haue &c. vpon the condycyon folowynge. In wytnes wherof, as well J the sayd A. of B. as the forsayd C. of D. to these endētures interchaungeably haue put to our seales, or els thus. In wytnes wherof to one part of this endenture J haue put to my seale, & to the other part of the same endenture the forsayd C. of D. hath put to his seale. &c.

¶ And it semeth that such an endenture made in the fyrst p̄son, is as good in the lawe as the indenture made in ꝑ thyrde parson, whan both partyes haue therto put theyr seales, for in ꝑ endenture made in the thyrde parson, or in the fyrst p̄son yf mencyon be made that the graunteur hath set his seale onely, & nat ꝑ graunte, than is the endenture only the dede of ꝑ grauntour. But where a mencion is made that the graunte hath set his seale to the endenture. &c. Than is the endenture as well the dede of the grauntour as ꝑ dede of the graunte, and thus it is the dede of both, and also euery party of the endenture is ꝑ dede of both ptyes in such case.

¶ Also yf estate be made by endenture to a man for terme of his lyfe, ꝑ remaynder

to

to another in fee upon condicion.&c.and
yt the tenaunt for terme of lyfe, hath set
his seale to the partye of the endenture,
and after dyeth, & he in ỳ remaynd;e.&c.
entreth by force of hys remaynder. In
this case he is holdē to performe al the
condicions comp;ysed within the enden
ture,as ỳ tenaūt for terme of lyfe ought
to do in his lyfe, & yet he in the remayn=
der neuer sealed any parcell of the endē=
ture,but the cause is,that in so much yt
he entreth, and agreeth to haue the lāde
by force of the endenture,he is holden to
parform;e the condicion within the endē
ture,yt he wyll haue the lande.&c.

☞Also yt a feoffement be made by dede
poll upon condicion.&c. And for this yt
the condicion is nat pform;ed, ỳ feoffour
entreth, and happeth the possessyon of ye
dede poll, yt the lesse b;ynge an accyon
of that entre agaynst the feoffour,it hath
ben questyoned yt the lessour may plede
the condicion.&c.by ỳ dede poll agaynst
the feoffee,and some haue sayd nay,in so
much that it semeth vnto thē that a dede
poll, and the p;opertye of the same dede
appertey neth to him to whome the dede
is made,& nat to hym that made the dede
And in so muche that suche a dede apper
teyneth nat to the feoffour, it semeth to
them that he may nat plede this dede.&c.

The ple dynge of a con dycyon by a dede Poll.

And other haue sayd the cõtrary, & haue shewed dyuers causes. One is, yf the case be suche that in the accyon betwene the, yf the feoffe plede the same dede, & shewe this to the court. In this case, in so much that the dede is in the court, the feoffour may shewe to the court howe in the dede by dyuers condicions to be performed of the party of the feoffe, and for thys that they be nat performed he entred. &c. and therto he shalbe receyued, by ꝑ same reason, whan the feoffour hath the dede in hande, and sheweth it to ꝑ court, he shalbe well receyued to plede of this. &c. And namely whan the feoffour is pryuy to ye dede, for he ought to be pryuy to the dede whan he made the dede.

¶ Also yf two men make or do a tresspas to another, the which releaseth to one of them by his dede all accyons personels. &c. Natwithstandynge he sueth an accyõ of Tresspas agaynst the other, the defendaunt may well shewe that the tresspas was done by him, & another hys felowe, and that the playntyf by the dede that he sheweth for the released to his felowe, al accyons personels, & yet suche dede appertaynyth to his felowe, & nat vnto him but for this that he may haue aduantage by the dede, yf he may shewe the dede to the court, he may well plede therfore by

the

the same reason in the other case whan the feoffour ought to haue aduantage by the cōdicion comprysed w̄ the dede Pol.
¶ Also yf the feoffee gaue or graunted ẏ dede Pol to the feoffour, such graūt shal be good, and than the dede, and the properte of the dede, apperteyneth to ẏ feoffour. And whan ẏ feoffour hath the dede in hande, and pleadeth it to the court, it shalbe the more vnderstāde that he came to the dede by a lawfull meane, than by a torcyous meane & so it semeth that they may well plede suche dede Poll, that cōprehendeth condicion. &c. Yf he haue the dede in hande. &c. Ideo semper quere dedubiis, quia per raciones peruenitur ad ligittimam rationem.

¶ Estates that men haue vpon cōdicion in the lawe, be suche estates that haue a condycyon in the lawe anexed to them, thoughe it be nat specifyed in wrytynge so as a man graūt by his dede in another the offyce of a Parkeshyp of a Parke to haue and to occupye the same offyce for terme of his lyfe, the estate that he hath in the offyce is vpon cōdicion in ẏ lawe, that is to say, that the Parker well and truely shall kepe the Parke, and do thys that to his offyce apperteyneth to do, or otherwyse that it shalbe lefull to ẏ graūtour and to his heyres to put him out, & to

Estates vpon a condycyon in lawe.

to graunt that to another yt he wyll. &c. And suche cõdicion as is vnderstande by the lawe to be annexed to some thynge is as stronge as yf the cõdicion were set or put in wrytyng. In the same maner it is of graũtes of offyces, of Stewardes, Cõstables, Bedles, Baylyffes, and other offycers, but yf suche offyce be graunted to a mã to haue & to occupy by him or by hys deputy, than if the offyce be occupyed by him or by his deputy as it ought by the lawe to be occupyed, thys suffyseth for hym, or els the grauntour or his heyres may put him out, as it is afore sayd.

¶ Also estates of landes or tenementes may be vpon cõdicion in ỳ lawe, though that vpon the estate made, there was no reherfall made of the cõdicions, as put ỳ case that a lease be made to the husbande and his wyfe, to haue and to holde to thẽ durynge the couerture betwene them in this case they haue estat for tme of their two lyues vpon condicion in lawe, that is to say, yf one of them dye, or yf deuors be made betwene them, that than it shal be lefull to the lessour and hys heyres to entre. &c. and ỳ they haue estate for terme of theyr two lyues it is pued this. Euery man that hath estate or franke tenement in any landes or tenementes, eyther he hath estate in fe, or in fe tayle, or for tme

of

of lyfe, or for terme of anothers lyfe, and by such lease, they haue Franke tenemēt But thei haue nat by that graunt fee nor fee tayle, nor for terme of anothers lyfe. Ergo they haue estate for terme of theyr ii.lyues, but this is vpon condicion in ꝑ lawe in forme aforesayd. And in this case yf they make wast, the lessour shal haue agaynst them a writ of Wast, supposyng by his writ. Quod tenent ad terminum vite. &c. But in his plee, he shall declare howe, and in what maner the lease was made. In ꝑ same maner it is yf an abbot make a lease to a man to haue & to holde durynge the tyme that the lessour is abbot. In this case the lesse hath estate for terme of his owne lyfe, but this is vpon condicion in lawe, that is to say, that yf the abbot dye, or resygne to be deposed, that it shalbe lefull to his successours to entre. &c. Also a man may see in the boke of assyse. An. 38. E. 3. A plee in assyse in thys forme that ensueth. Assyse of Nouell dissesyn was sometyme brought agaynst one A. that pleded to the assyse, and was founde by verdyt that the auncester of the playntyfe deuysed the tenementes to be solde by the defendant that was his executour to make dystribucion of ꝑ money for his soule, & it was founde that a man after the death of the testatour, tendered

A generalwryt & a specyal declaracion.

him certayne some of money for the tene
mentes but nat to the value, and that the
executour after helde the tenementes in
hys owne hande by.ii.yere to the entent
to haue solde the tenementes the more
derer to some other, and it was founde,
that he had al this whyle after taken the
profytes of the tenementes to hys owne
vse, without any thynge doynge for the
soule of the dead. Wherfor the execu-
tour in such case is holde by the lawe to
make the sale as soone as he may, after þ
death of the testatour, & it is founde that
he refused to make the sale & so þ defaut
was in him, & also by force of the deuyse
he was holden to haue put all the profy-
tes of the sayde tenemētes to the deathes
vse, & it is founde that he hath taken thē
to hys owne vse, & so another defaut is
in him, wherfore it was adiudged that þ
playntyfe shulde recouer. &c. And so it ap
pereth by the sayd iudgement þ by force
of the sayd deuyse the executour had no
estate nor power in the tenementes, but
vpon condycion in the lawe. &c. And in
suche cases it nedeth nat to haue shewed
any dede rehersynge the condicions. &c.
Et paucis dicitur intēdere plurima pos-
sis. More shalbe sayd of condicions in þ
chapiter of dyscentes that taketh away
entre, and in the Chappter of Releases,
and

and in the chapiter of Dyſcontynuaūce.

¶ Dyſcentes. Cap.bi.

DIſcentes that take away entres be in.ii.maners, that is to ſay, where the diſcente is in fe, or in Fee tayle. Dyſcent in fee, that taketh away entre, is ꝑ a man ſeaſed of certayne landes or tenementes is dyſſeaſed, and the dyſſeaſour hath yſſue and dyeth, of ſuche eſtate. But nowe the tenementes dyſcende to ꝑ yſſue of the dyſſeaſour by courſe of the lawe, as heyre vnto him.

¶ And for this that the lawe putteth the landes or tenementes vpon the yſſue of ꝑ dyſſeaſour that by force of the diſcent, ſo the yſſue commeth to the tenementes by courſe of ꝑ lawe & nat by his owne dede, the entre of the diſſeaſy is taken away, & is therof put to ſue his wryt of Entre vpon diſſeaſyn agaynſt ꝑ heyre of the diſſeaſour, to recouer the lande.

¶ Diſcent in the tayle that taketh away entre, is ꝑ a man be diſſeaſed and the diſſeaſour gyueth the ſame lāde to another in the tayle, and the tenaunt in the tayle hath yſſue & dyeth ſeaſed of ſuche eſtate, and the yſſue entreth in this caſe ꝑ entre of the dyſſeaſy, is taken away, and he is put to ſue agaynſt the yſſue of the tenaūt in the tayle a wryt of Entre vpon dyſſeaſyn. &c. A dyſcent in tayle.

And

☞ And note well that in suche discentes that take away entres it behoueth that a mā dye seased in his demesne as in Fee tayle, for dyenge seased for terme of lyfe, or for terme of anothers lyfe shall neuer take away the entre. &c.

Also a dyscent of reuercyon or remayndre shal neuer take away entre. &c. so that such cases that take away entres byforce of discentes, it behoueth that he that dyeth seased, haue fee & Franke tenement at ꝑ tyme of his dyenge, or els such discent taketh nat away entre.

¶ Also as it is sayd of discentes that discende to the yssue of hym that dyeth seased. &c. The same law is where they haue none issue, but the tenementes dyscende to the brother, or to the syster, or to the vncle or to some other cosyn of hys that dyeth seased. &c.

¶ Also yf there be lorde & tenaunt, and ꝑ tenaunt be dysseased, and the dysseasour alyeneth to another in fee, & the alyence dyeth without heyre, & the lorde entreth as in his eschete. In this case, the dysseasye may entre vpon the lorde, for thys yt the lorde cometh nat to the lande by dyscent but by eschete.

¶ Also yf a man seased of certayne lande
19.6. in fee, or in Fee tayle, vpon condicion to
19.7. yelde certayne rent, or vpon other condy-

cion

cion thoughe that suche tenaūt seased in
fee, or in fee tayle dye seased, yet yf the
condicion be broke in theyr lyfe or after
theyr decease.&c. this taketh nat away ꝑ
entre of the feoffour, nor of the donour,
or of their heyres, for this that the tenaū
cy is charged with the condycion in the
estate of the tenauncy is condycionel, in
whose handes socuer the tenauncy shall
come.&c.

¶Also & yf such a tenaūt vpon cōdicion
be dysseased, and the dysseasour dye ther
of seased, and the lande discendeth to the
heyre of the dysseasour, nowe the entre
of the tenaunt vpon condicion that was
dysseased, is taken away, but yet yf the
cōdicion be broken.&c. Than may ꝑ feof
four or the donour that made ꝑ estate or
theyr heyres entre.&c. Causa qua supra.

¶Also yf a dysseasour dye seased, & hys
heyres entre.&c. the whiche endoweth ꝑ
wyfe of the dysseasour of the thyrde part
of the tenementes. In this case as to the
thyrde part that is assygned to the wyfe
in dower, incontynent a none after that
the wyfe entreth & hath the possession of
the same thyrde part, the dysseysye may
lawfully entre vpon the possession of the
wyfe, in the same thyrd part. And ꝑ cause
is for thys that whan the wyfe hath her
dower she shalbe adiudge rather imme-
dyatly

dyatly by her husbande and nat by the heyre, and so as to the Franke tenement of the same thyrde part, the discent is defeted, and so maye ye se howe before the dowement the dysseasy myght nat entre in any part. &c. And after the dowement he may entre bpō the wyfe & yet he may nat entre bpon the other. ii. partyes that the heyre of ꝑ dysseasour hath by discent

¶ Also yf a woman be seased of lande in fee, wherof I haue ryght & tytle to entre yf the woman take an husbande & haue yssue betwene thē, & after the wyfe dieth seased, and after that the husbande dyeth and the yssue entreth. &c. In this case I may entre bpō the possessyon of the yssue for this that the yssue cometh nat to the tenementes immedyatly by discent after the death of his mother.

¶ Also yf a dysseasour enfeffe hys father and the father entreth and dyeth of such estate seased, by whiche the tenementes discende to the dysseasour, as to the sōne and heyre. &c. In thys case the dysseasye may well entre bpon the dysseasour, nat withstandynge the distrent, for thys that as to the dysseysyn the dysseasour shalbe adiudged in, but as dysseasour, natwithdynge the discent. &c.

*Thys case is

¶ Also yf a man seased of certayne lādes in his demesne as of fe, and hath yssue. ii. sonnes

sonnes & dyeth, and the ponger sonne entreth by abatement in the lande seased, & the tenementes discende to the yssue, and the yssue entreth into the lande, in thys case the elder sone or his heyres may entre by the lawe vpon the yssue of ꝑ ponger sonne, notwithstandynge the discent for this that whan the ponger sonne abated in the lande after the death of hys father before any entre of the elder, ꝑ lawe entendeth that he entred in the clampyng as heyre vnto his father, & for this that the elder brother claymeth by the same tytle, that is to say as, heyre vnto his father, he and hys heyres may entre vpon the yssue of the ponger brother, notwithstandynge the discent. &c. for this ꝑ they clayme by one selfe tytle and in the same maner it shalbe yf there be many discentes fro one yssue of the ponger sonne. &c. But in suche case yf the father were seased of certayne landes in fee, & hath yssue two sonnes and dieth, and the elder sone entreth, and is seased. &c. And after the ponger brother disseaseth him, by which dysseasyn he is seased of fee, & hath yssue and of suche estate dyeth seased, than the elder brother may not entre, but is put to his writ of Entre vpon dysseysyn for to recouer the lande. And ꝑ cause is for this that the ponger brother commeth to the tenemētes

iudged 4. of E. 4. in the yb. lefe.

tenementes by a wronge dysseysyn made vnto his elder brother. And for ẏ wrōge the lawe may nat entende that he clayme as heyre to hys father no more than a straunge parson that had dysseased the elder brother that neuer had any tytle. &c. And so may ye se the dyuersyte where yᵗ yōger brother entreth after the death of his father, before any entre made by the elder brother, in such case. &c. And where the elder brother entreth after the death of his father, and is dysseased by the yonger brother. &c. In the same maner yf a man seased of certayne lande in fee hath yssue. ii. daughters, and dieth, & the elder daughter entreth in the lāde claymynge all the lande to her, & therof only taketh the profytes and hath issue, & dyth seased by which her yssue entreth, which yssue hath yssue & dyeth seased, and the seconde yssue entreth. &c. Et sic vltra, yet the yonger daughter & her yssue as to the halfe may entre vpon euery yssue of the elder daughter, natwithstandynge suche dyscent, for this yᵗ they clayme by one selfe tytle. &c. But in suche case, yf both two systers come into the lande to entre after the deth of theyr father, and therof were seased, & after the elder syster therof dis-seased the yonger syster of that, that to to her belongeth, and therof is seased in

fee,

fee, and hath yssue, & of such estate dyeth seased, by which the tenementes discẽde to the yssue of the elder syster, than the yonger syster or her heyres may nat enter. &c. Causa qua supra.

¶ Also yf a man seased of certayne lande hath yssue two sõnes, and the elder brother is bastarde, and the yonger brother mulier, and the father dyeth and the bastarde entreth and claymeth as heyre vn to his father, & occuppeth the lande all his lyfe wout any entre made vpon hym by the mulier, and the bastard hath yssue and dyeth of suche estate seased in fee, & the lande dyscendeth to hys yssue, & hys yssue entreth. &c. In this case the mulier is without remedy, for he may nat entre nor he shal haue no accion for to recouer the lande, for this that there is an auncyent lawe in suche case vsed, but it hath ben an oppnion of some men that shalbe vnderstande where ẏ father hath a sõne a bastarde by a woman, and after he weddeth the same woman, and after the spousayle he hath yssue by the same woman a sonne or a daughter mulier, & the father dyeth. &c. If suche a bastarde entre. &c. & hath yssue, & dyeth seased. &c. Than shall the yssue of suche a bastarde haue ẏ lãde clerely to him as it is aforesayd. &c. And nat any other bastarde borne of the mo-

ther that was nat espoused to his father and this is a good and reasonable opynion. For suche a bastarde borne before the espousels solempnysed betwene hys father and his mother, by the lawe of holy churche is mulier, thoughe that by the lawe of the lande, he is a bastarde borne and so he hath colour of ẽtre as heyre to his father, for this that he is by one law mulier, that is to say, by the lawe of holy church. But otherwyse it is of a bastarde that hath no maner of colour to entre as heyre, in so muche that he may nat in no law besayd mulier. &c. For such a bastard is sayd. Quasi nulli⁹ filius. But in such case aforesayd where the bastard entreth after the death of his father, & the mulier putteth him out, & after the bastarde disseaseth the mulier, & hath yssue, & dyeth seased, and ẏ issue entreth, thã the mulier may haue a wryt of Entre vpõ dysseasyn agaynst the yssue of the bastarde, & recouer the lande. &c. And so may ye se the dyuersyte where such abastarde cõtynueth hys possessyon all hys lyfe without any interrupcyon, and where the mulier entreth and interrupteth the possessyon of suche a bastarde.

¶ Also yf a chylde within age haue title and cause to entre into any lãdes or tenementes vpon another that is seased in fe

or in fee tayle of the same landes & tene
mētes, yf such a man that is so seased dye
of suche estate, so seased, & the tenemētes
discende to his yssue durynge the tyme þ
the chylde is within age, suche dyscent
shal nat toll the entre of the chylde, but þ
he may entre vpon the yssue that is in by
discent. &c. for this that no laches shalbe
adiudged in a chyld wtin age in such case
¶Also yf the husbande & hys wyfe as in
ryght of the wyfe haue tytle & ryght to
entre in þ tenementes that another hath
in fee or in fee tayle, and such a tenaunt
dyeth seased. &c. In suche case the entre
of the husbande is taken away vpon the
heyre that is by discent. But yf the hus=
bande dye, than the wyfe may well enter
vpon the yssue by dyscent, for this that þ
laches of the husbande shal nat turne to
the wyfe & to her heyre in preiudice nor
in damage in such case, but that the wyfe
and her heyres maye well enter, where
suche discent is durynge þ couerture. &c.
¶Also yf a mā that is nat of hole mynde
that is to say in latin. Qui non est cōpos
mentes, hath cause to entre in any suche
tenementes yf suche dyscent. vtās. be had
in his lyfe durynge the tyme that he was
out of hys mynde, & after dye hys heyre
may well entre vpon him that is by dys=
cent. And in this may ye se a case that the

heyre may entre, and yet his auncetter ꝑ had the ſame tytle may nat entre, for he that was out of his mynde at the tyme of ſuche diſcent yf he wyl entre after ſuche a diſcent, yf accyon vpon thys be ſued agaynſt him, he hath nothynge for him to plede or to helpe him but ſay that he was out of his mynde at the tyme of ſuch diſcent. &c. And he ſhal nat be receyued to ſay this, for this that no man of full age ſhal be receyued in any ple by the lawe to dyſ ſalte or dyſſable his owne parſon. Vnt ꝑ heyre may wel dyſſable the parſon of his auncetter for aduauntage of the heyre in ſuche caſe, for this that no laches may be adiudged by the law in him that hath no dyſcreeyon in ſuche caſe. And yf ſuche a man out of his mynde make a feoffement &c. He may nat entre ne haue a wryt called Dum non fuit compos mentis. &c. Cũ qua ſupra. But after his death, his heyre may wel entre or haue the ſame wryt Dũ non fuit cõpos mẽtis at his electyon. &c.

T.12.
E.4.

¶ Alſo yf I be dyſſeaſed by a chylde within age that alyeneth to another in fee, and the alyen dyeth ſeaſed, & the tenementes diſcende to his heyre, & the chylde beyng within age, myne entre is taken awaye. But yf the chylde within age enter vpon the heyre that is in by diſcent, as he well may, for this ꝑ the dyſſent was durynge hys

his nonage, than I may well entre vpon the dysseasy, for this that by his entre he hath defeted & adnulled the dyscent. And in the same maner it is where I am seased, & the dysseasour maketh a feoffement in fee vpon condycyon &c. And the feoffe dyeth of suche estate seased. &c. I may nat entre vpon the heyre of the feoffee. But yf the cōdicion be broken so that by such cause the feoffour entreth vpō the heyre nowe may I well entre, for this ẏ whan the feoffour or hys heyres entre for the condicion broken, the discent is vtterly defeted. T.12. E.4.

¶ Also yf I be dysseased, and the dysseasour hath issue and entreth into relygion by force of whiche the landes discendeth to his yssue, in this case I may wel entre vpon the yssue, & yet there was a dyscent But for this that suche discent cometh to the yssue by the fathers dede, that is to say, for this that he entred into relygion &c. And the discent cometh to him by the dede of God, that is to saye, by death. &c. myne entre is congeable and lawfull, for yf I arrayne ass. of No. disseasyn agaynst my dysseasour, thoughe yt he after entre into religion, this shal nat abate my wryt But my wryt, this nat wstandynge shal a byde in his force and strength and my recouere agaynst hym shalbe good, by the same

same reason the dyscent that came to his yssue by hys owne dede maye nat put me fro myne entre.&c.

¶Also yf I lete to a man certayne landes for terme of.xx.yeres,and another disseseth me,& putteth out the terme, & dyeth seased,and the tenementes discende vpon his heyre, I may nat entre,& yet the lesse for terme of yeres may wel entre,for thy that by hys entre he putteth nat out the heyre that is in by dyscent fro the Frake tenement that vnto him discended. But onely to haue tenementes for terme of yeres, the whiche is no expulsynge of the Franke tenement of the heyre that is in by discent.But otherwyse it is wher my tenaunt for terme of lyfe is dysseased.&c. Tanta qua supra.&c.

Dyuersyte.

¶Also it is sayde that yf a man seased of tenementes in fee by occupacion in tyme of warre,and dieth therof seased in tyme of warre, and the tenementes discende to hys heyre, suche dyscent putteth out no man of his entre. And of this a man may se a ple in a wryt of Tyel.An.7.E.2.

¶Also no dyenge seased where all the tenementes cometh to another by succession shall take away the entre of any parson. &c. For of prelates,Deanes,or prones of churches.&c.though that there were.xx. successyons,this putteth no man frō his entre

entre. &c. More shalbe sayd of discētes in the chappter of Contynuall clayme. &c.

¶ Contynuall clayme. Cap. vii.

Contynuall clayme is where a man hath ryght and tytle to ēter in any landes or tenementes wherof another is seased in fee or in Fee tayle, yf he that hath tytle to entre make contynuall clayme to the landes and tenementes before the dyeng seased of him that holdeth the tenementes. Than though suche a tenaunt dye therof seased and the landes & tenemētes discende to his heyre, yet may he that hathe made suche clayme or hys heyres entre into the landes and tenemētes dyscended, by cause of the contynuall clayme made, natwithstandynge such discent. As in case a man be dysseased, & the dysseasy maketh contynuall clayme to ye tenementes in the lyfe of the dysseasour though the disseasour dye seased in fee, & the lande discendeth vnto his heyres, yet may ye disseasy entre vpō ye possessyon of the heyre, natwithstandynge suche discent. ¶ In the same maner it is, yf tenaūt for terme of lyfe alyen in fee, he in the reuercyon, or he in the remayndre may entre vpon the alyen. And yf suche alyen seased of suche estate without cōtynual clayme made to the tenementes before ye dyenge seased of the alyen and the tenemētes by

cause of ꝑ dyenge seased of the alyen dis-
cende vnto the heyre of the alyene. Than
ne may nat he in ꝑ reuercion, nor he in ꝑ
remaynder entre. But yf he in the reuer-
cion, or he in ꝑ remaynder ꝑ hath cause
to entre vpon the alyen made contynual
clayme to the tenemētes before ꝑ dyenge
seased of the alyen, than such a man may
entre after the death of the alyen as well
as he myght in his lyfe. ⁊c.

¶ Also yf landes be let vnto a mā for tme
of his lyfe, the remaynder vnto another
for terme of lyfe, the remaynder to the
thyrde in fee, yf the tenaunt for terme of
lyfe alyen to another in fe, ⁊ he in the re
mayndre for terme of lyfe maketh contyn-
nuall clayme vnto the lande before the
dyenge seased of the alyen, and after the
alyen dyeth seased. ⁊c. And after he in the
remaynder for terme of lyfe dyeth before
any entre made by him.

¶ In this case he in the remaynder in fe
may entre vpon the heyre of the alyene,
bycause of cōtynual clayme made by him
that made ꝑ remaynder for terme of lyfe,
for this that suche ryght that he hath to
entre shall go and remayne to him in the
remaynder after him, in so much that he
in the remaynder in fee may nat entre v-
pon the alyenee in fee, durynge the lyfe
hym in the remaynder for terme of lyfe ⁊

bycause

bycause he myght nat make contynuall clayme, but whan he had tytle to entre. But it is to se to the my chylde how & in what maner suche cõtynuall clayme shal be made, and to lerne this. Thre thynges there be to be vnderstande. ☞ The fyrst thyng is, yf a man haue cause to entre in any landes or tenementes in dyuers townes within one shyre yf he entre in any parcell of the landes or tenementes that be in one towne in the name of the lãdes or tenementes that ben in one towne to whiche he hath ryght to entre within al the townes in ỹ same shyre, by suche entre he hath as good possessyon & sealyn of such landes or tenementes wherof he hath tytle to entre as yf he had entred in to euery parcell, & this semeth great reason, for yf a man wyll enfeoffe another without dede of certayne landes or tenementes that he hath in many townes within one shyre, & he wyll delyuer sealyn to the feoffee of parcell of the tenemẽtes within one towne in the name of all the landes and tenementes that he hath in the same towne, & in all ỹ other townes. &c. all the sayd tenementes. &c. shall passe by force of the sayd lyuere of sealyn to hym to whom suche feoffement in suche maner is made. And yet he to whome suche lyuere of sealyn is made, hath no ryght

☞ In what wyse clayme ought to be made.

to

to all the landes & tenementes in all the townes, but bycause of the lyuere of seasyn made of parcell of the landes or tenementes in one towne. A multo fortiori. It semeth good reason that whan a man hath tytle to entre into landes or tenementes in dyuers townes within one shyre, before any entre by him made, that by the entre of him made in parcell of the tenementes in one towne in the name of all the landes and tenementes to the which he hath tytle to entre with the same shyre thys is a seasyn of all in hym, & by suche entre he hath possession & seasyn in dede, as yf he had entred into euery parcell. &c.

The seconde is to vnderstande that yf a man haue tytle to entre into any landes or tenementes, if he dare nat entre in the same landes or tenementes, nor in any parcel therof for doubte of beatynge, or for doubte of maymynge, or for doubte of bothe, yf he go and approche as nyghe the tenementes as he dare for suche doubte & clayme by wordes the tenementes to be his incontynent by such clayme, he hath a possessyon and seasyn in the tenementes aswel as yf he had entred in dede, though he had neuer possessyon or seased of the same landes or tenementes before the sayd clayme. And that the lawe is suche, it is well proued by a plee of an assyse in the

doke of allyse. An.38.Ed.3. The tenure of whiche ensueth in this fourme.

In the countye of Dorset before the same Justyces it was founden by verdyt of allyse that the playntyfe which hadde ryght by discent of heritage to haue the tenementes put in playnte at the tyme of the death of hys auncester which was dwellynge in the towne where the tenementes were, & by worde claymeth the tenemētes amonge his neyghbours, but for doubt of death he durst nat approche vnto the tenemētes, but bryngeth allyse, and vpon the matter foūde, it was awarded that he shulde recouer.

¶ The thyrde thynge is to vnderstande within what tyme the clayme yᵗ is sayde contynual clayme shal serue, & helpe him that maketh the clayme & his heyre. And as to thys it is to wyt that he that hath tytle to entre whan he wyll make hys clayme, & yf he dare approche vnto the lande. Than it behoueth him to go vnto the lande or to parcel of it, and make his clayme, and if he dare nat approche vnto the lāde for drede of betynge, mayntynge, or death, than it behoueth him to go and to approche as nyghe as he dare toward the lande or parcell therof, and make his clayme. And yf hys aduersary that occupyeth the lāde, dye seased in fee or in Fee

tayle

tayle within a yere and a day after such clayme made, by whiche the tenementes discende to his sonne as heyre vnto hym yet may he that made the clayme entre vpon the possessyon of the heyres. But in thys case after the yere and the day that suche clayme was made, yf none other clayme be made, yf the father thā dye seased, the mozowe after the yere and ꝑ day oz at another day after. &c. Thā may nat he that made the clayme entre. And ther foze, yf he that made the clayme wyll be sure alway that his entre shall nat be taken away by suche dyscent, it behoueth him that within the yere and the day aft the fyrst clayme, to make another clayme in the fourme afozesayd. And within the yere and the day after the seconde clayme to make the thyrde clayme in ꝑ same maner, and within the yere & the day after ꝑ thyrde clayme, to make another clayme & and so forth, that is to say, to make another clayme within euery yere and day nert after euery clayme made durygne ꝑ lyfe of hys aduersary, and than at what tyme pᵗ his aduersary dye, his entre shal nat be taken awaye by no suche dyscent. And suche clayme made in such maner is most comonly taken, & called contynuall clayme of him pᵗ made the clayme. But yet in case afozsayd where his aduersary

dyeth

dyethe within yere and the daye nexte after the fyrst clayme, this is in the lawe a contynuall clayme, in so much that his aduersary dyed within the yere and the day after ꝑ same clayme, for it is no mede for him that made the clayme to make any other clayme, but at that tyme that he within the same yere and the day. ꝛc.

¶Also yf his aduersary be dissesed win the yere and a day after the clayme, & the dysseasour dyeth therof seased within ye yere and the day. ꝛc. Thys dyenge seased shal nat hurt him that made the clayme, but that he may entre. ꝛc. For who so euer he be that dyeth seased within ꝑ yere and the day after suche clayme, that shall nat hurt him that made the clayme, but that he may enter, though there were many dyenges seased & many discentes win the yere and the day. ꝛc.

¶Also yf a man be dysseased and the dysseasour dye seased within the yere & the next after the dysseasyn done, wherby ꝑ the tenementes discende to his heyre, in this case the entre of the dysseasy is take away for the yere and the day that shulde helpe the dysseasy in suche case. ꝛc. shall nat be taken from the tyme of the title of enter growen vnto him, but onely from the tyme of the clayme by him made, in tyme afortsayd. And for that cause it shal

be good

de good for such a disseasy for to make hys clayme.&c. In as shorte tyme as he may after the dysseasyn.&c.

¶ Also yf suche a dysseasour occupy the lande by.xl.yeres wout any clayme made by the dysseysy.&c. And the dysseasy by ye tell space before the death of the dysseasour make clayme in ꝑ fourme aforesayd yf so it fortune that within a yere and a day after suche clayme the dysseasour dye seased.&c. The entre of the dysseasy is cõ geable,& for thisit shalbe good for suche a man that made no clayme that hath tycle to entre.&c. whan he hereth that hys aduersary lyeth syke to make his clayme

¶ Also as it is sayde in the cases put before where a man hath tytle to enter bycause of a dysseasyn.&c. The same lawe is where a mã hath ryght to enter bycause of other tytle.&c.

¶ Also in this sayde p̃sydentes may ye knowe my chylde two thynges. One is where a man hath tytle to entre vpon a tenaunt in tayle yf he make any suche clayme to the lande.&c. Than is the state of the tayle defeted,for that clayme is as an entre made by him,& is of the same effect in the lawe as he were vpon ꝑ same tenementes, and had entred in the same tenemẽtes as is aforesayd. And thã whã the tenaũt in tayle imedyatly after suche

clayme

clayme contynueth his occupacyō in the tenementes, that is a disseasyn made of ꝑ same tenementes vnto him that made the clayme. Et sic per cōsequens. The tenaūt than hath fee symple. ⁊c.

The seconde thynge is, that as ofte as he that hath ryght to entre maketh such clayme, ⁊ this natwithstandynge his aduersary cōtayneth his occupacyon. ⁊c. so ofte the aduersary dothe wronge ⁊ disseasyn to him that made the clayme. And by this case so often may he that made the same clayme for euery such wronge ⁊ disseasyn made vnto hym, haue a writ of Tresspas. Quare clausum fuum fregit. ⁊c. to recouer hys damages. ⁊c. Or he may haue a writte vpon the statute of kynge Rycharde the seconde made the fyft yere of his regne, supposynge by his writ ꝑ his aduersary hath entred into the lādes or tenemētes of him that made ꝑ clayme where hys entre was nat gyuen by the lawe. ⁊c. And by suche accyon he shal recouer his damages. ⁊c. And yf the case be suche that the aduersary occupy the tenementes with force and armes, or with a multitude of people at the tyme of suche clayme. ⁊c. Than may he that made the clayme for euery suche tyme haue a writ of Forcible entre and recouer his treble damages.

Also

¶ Also here it is to se yt the seruaunt of a man that hath title of entre may by the cõmaundement of his mayster make contynual clayme for his mayst in his name and it semeth that in some cases he may do this, for yf he by hys cõmaundement come to any parcell of the lãde, and there maketh clayme. &c. In the name of hys mayster, this clayme is good for his mayster, for this that he hath done al that, yt it behoued his mayster to do in such case

¶ Also yf a mayster say vnto his seruãt that he dare nat go vnto the lande nor to any parcell of the lande for to make hys clayme. &c. And dare nat approche more nyghe vnto the sayd lande saue to suche a place called Dale, and cõmaundeth his seruaunt to go to the same place of Dale, and there to make a clayme for him. &c. yf the seruãt so do. &c. This semeth as good clayme for hys mayster as yf he had bene there in hys owne pson, for this that the seruaũt dyd all that his mayster durst do and ought to do by ỹ lawe in suche case.

¶ Also yf a man be so sycke or so lame yt he may nat in nõ maner come to the lãde nor to any parcell of the same, or yf there be a recluse that may nat bycause of hys order go out of hys house. &c. yf suche a maner parson cõmaundeth his seruaunt to go & make clayme for him. &c. and the

seruaunt

ſeruaunt dare nat go to the lande no; to any parcell therof fo; doubt of beatynge mayme o; death, & fo; that cauſe ſuch ſeruaunt cometh as nyghe vnto the lãde as he dare fo; ſuch dꝛede and maketh ſuche clayme. &c. fo; his mayſter it ſemeth that ſuche clayme fo; hys matter is good and ſtronge in the lawe, fo; els hys mayſter ſhulde be into great myſchyfe, fo; it may well be that ſuche a pſon that is ſycke o; lame, o; recluſe, cãnat kynde any ſeruaũt that dare goo vnto the lande no; to any pcel of it to make the clayme fo; him. &c. But pꝛ the mayſter of ſuch a ſeruaunt be in good helth, and may & dare well go to the tenementes o; to parcel of it to make his clayme fo; him. &c. pꝛ ſuche a mayſter cõmaundꝛ his ſeruaũt to go to ſome parcell of the lãde, and make clayme fo; him &c. And whan the ſeruaunt is in goynge to do the cõmaundement of hys mayſter he hereth by the way ſuche thynges that he dare nat go to any parcel of the lande fo; to make any clayme fo; hys mayſter, and fo; that cauſe he goeth as nygh vnto the lande as he dare fo; doubt of death, & there he maketh clayme fo; his mayſter, and the name of hys mayſter. &c. It ſemeth that the doubt in the lawe in ſuche caſe ſhalbe pꝛ ſuche clayme auayleth to hismayſter o; nat, fo; this pꝛ the ſeruaũt

dyd nat all thys that hys mayster at the tyme of cõmaundement durst haue done.

¶ Also some haue sayd that where a man is in pryson & is disseased & the disseasour dyeth seased durynge the tyme that the disseasy is in pryson, by which tenemẽtes descẽde to the heyre of the disseasour, they haue sayde that this shal nat hurt the disseasy that is in pryson, but that he may well entre, natwithstandynge suche dyscent, for this that he may nat make contynuall clayme whan he was in pryson. And also yf suche a one that is in pryson be outlawed in an accyon of Det or Tresspas or in appele of robbery. &c he shal recuere suche outlawry by wryt of Errour. &c. bycause he was in pryson at the tyme of outlawry agaynst him pnounced. &c.

¶ Also yf a recouery be had by discent agaynst suche a one yt is in pryson, he shal auoyde the iudgemẽt by wryt of Errour for thys that he was in pryson at the tyme of suche defaut made &c. And bycause yt such matters of recorde shal nat hurt thē that be in pryson but that it shalbe reuersed. &c. A multo forciori, it semeth that a matter in dede, that is to say, such discent had whan person shall nat hurt him. &c. specially for this that he may nat go out of pryson to make contynuall clayme. &c.

¶ And in ye same maner it semeth to thē where

*Concerning this mater seke the opynyons of ye Iustyces. P.6. D.6.

where a man is out of the realme in the kynges seruyce for bulynes of ꝑ realme, and yf a man be dysseased whan he is in the seruice of the kynge that suche disceit shal nat hurt the dissease, but for this ꝑ he myght nat make cõtynual clayme.&c. It semeth vnto them that whan he cometh agayne into Englande he may enter agayne vpon the heyre of the dysseasour. For suche a man shal reuerse an outlawry that is pronoũced agaynst him during the tyme that he is in seruyce.&c. Ergo a multe forciori. He shal haue ayde by the lawe in the other case.&c.

¶Also other haue sayde that yf a man be out of the realme thoughe he be nat in ꝑ kynges seruyce, if suche a mã beynge out of the realme be disseased of ládes or tenementes within the realme & the dysseasour dye seased.&c. The dysseasy beynge out of the realme it semeth vnto thẽ that whan the dysseasy cometh into ꝑ realme that he may well entre vpon the heyre of the dissease sour.&c. And this semeth vnto them for two causes. One is, that he that is out of the realme may nat haue knowlege of the dysseasyn made vnto him by vnderstandyng of the lawe, no more thã that a thyng done out of the realme may be tryed within the same realme by ꝑ othe of twelue men.&c. And to cõpell suche a

man to make contynuall clayme whiche by the vnderstandynge of the lawe can haue no knowlege or cognisaūce of such disseasyn made or done, this shalbe incō-uenyent, namely whan suche a disseasyn is done vnto him whan he was out of ꝑ realme, and also the dyenge seased was done whā he was out of the realme. For in such case he ne may nat by possedyplyte after the comon presumpcyon make no contynuall clayme, but otherwyse it shal be ꝙ the dysseasy were within ꝑ realme at the tyme of the disseasyn or at ꝑ tyme of the dyenge seased of the disseasour. ꝛc. Another matter they alledged for a proofe that whan the statute of Kynge Edward the thyrde the. xxiiii. yere of his raygne by whiche statute no clayme is out. ꝛc. the lawe was suche, that ꝙ a kyng were leuyed of certayne lādes or tenementes, ꝙ any that was a straunger to the kyng had ryght to haue and recouer the same landes or tenementes, ꝙ he came nat & made his clayme therof within a yere & a day next after the fine leuyed, he shalde barred for euer. Quia decibatur finis qō finē litibus imponebat. And ꝑ the lawe was suche, it is proued by the statute of Westm. 2. De donis cōdicionalib⁹, where it speaketh, ꝙ the kyng be leuyed of tenementes gyuē in the tayle. ꝛc. Quod fines

Dyuersyte.

ipso

ipso iure sit nullus, nec habeant heredes aut illi quos spectat reuercio licet plene etatis fuit in Anglia extra personam necesse abbonere clameum suum. So it is proued that yf a straunger yt hath ryght vnto the tenementes yf he were out of ẏ realme at the tyme of the fyne leuyed. &c. shal haue no damage thoughe that suche fyne was matter of recorde by great reason it semeth vnto them that a disseasyn and a dyscent that is matter and dede shal nat so greue him that was disseased whā he was out of the realme at the tyme of ẏ disseasyn, and also at the tyme that ẏ disseasour dyed seased. &c. But that he may well entre natwithstādynge such dyscēt.

¶ Also enquyre yf a mā be dysseased and he arrayne Assyse agaynst the dysseasour and the recognytours of ẏ assyse chalēge for the playntyfe, and the Justices of the assise wyl be aduysed of theyr iugemētes vntyll the next assyse. &c. And in ẏ meane season the dysseasour dyeth seased. &c. yf the sayd sute of the assyse shalbe taken in lawe for the sayde dysseasy a contynuall clayme, in so much that no defaut was vnto him. &c.

Also enquyre yf an abbot of a monastery dye, and durynge the tyme of vacacyon a man wrongefully entreth in cerayne parcels of lande of the monastary

claymynge the lande vnto him & his heyres, and of that estate dyeth seased & the lande discendeth vnto his heyres, & after that an Abbot is chosen & made abbot of the same monastery. A question is yt the abbot may entre vpō ꝑ heyre or nat. And it semeth to some that the abbot may wel entre in this case, for this that the couēt in tyme of bacacyon was no parson able to make contynuall clayme, for no more than they be parsonable to sue an accyon no more be they parsonable to make contynuall clayme, for the couent is but as a deade body without hede, for in tyme of bacacyon a graunt made vnto theym is voyde, and in this case the abbot may nat haue a writ of Entre vpon dysseasyn agaynst the heyre, for this that he was neuer dysseased. And yt the abbot may nat entre in this case, thā he shalbe put vnto his writte of Ryght the which shalbe to harde for the house, by whiche it semeth to them that ꝑ abbot may well entre. &c. Quere & dubiis legez bene discere si vis quere dat sapere que sūt legittima vere.

Releses. Cap. viii.

Releses of all right

Releses be in dyuers maners, that is to say, releses of ryght yt a mā hath in landes or tenementes, and releese of accyons reals & parsonels, and of other thynges. Releese of all the ryght that

that a man hath in landes or tenementes &c. is comonly made in ſuche forme or to ſuche effect. Nouerint vniuerſi per preſentes me A. de B. remiſiſſe relaxaſſe et omnio de me & heredibus meis quiet clamaſſe E. de D. totum ius titulū et clameum que vñi habeo vel quouiſmodo in futur habere potero de it in vno meſ cum pertiñ in F. &c. And it is to vnderſtande yt theſe wordes (remiſiſſe et quiet clamaſſe) be of ſuche effect as theſe wordes relaxaſſe. &c. And alſo theſe wordes whiche be comonly put in ſuche dedes of releſſes. &c. that is to vnderſtande. Que quouiſmodo in futurum habere potero, be as wordes boyde in the law, for no ryght palleth by a releaſe, but ỳ ryght yt the leſſour hath at the tyme of his leaſe made, for yf it be father & ſõne, and the father be diſſeaſed, and the ſonne leuynge, his father releaſeth by his dede to the diſſeaſour all the ryght ỳ he hath or may haue in the ſame tenementes without clauſe of warrãtiſe &c. And after the father dyeth, the ſonne may lawefully entre vpon the poſſeſſyon of the diſſeaſour for this that he had no ryght in the lãde leuynge his father, but the ryght diſcended vnto him by diſcent after the releaſe made by the death of his father. Alſo in a releaſe of all the ryght ỳ a man hath in certayne lãdes, it be houeth

vnto

vnto him to whom the release is made in
suche case that he haue a fre holde in the
landes in dede or in the lawe at the tyme
of the release made, for in euery where
he to whō the release is made hath a free
holde in dede or in lawe at the tyme of ꝑ
release made. &c. the release is good frāke
tenement in lawe, as yf a man haue dys-
seased another and therof dyeth seased,
by whiche the tenementes discende vnto
his sonne, howe be it that his sōne entre
nat in the tenemētes, yet he hath a frāke
tenement in the lawe to him vpon him, &
therfore ꝑ release made is good ynough.
And if he take a wyfe so beynge seased in
in the lawe, howe be it that he neuer en-
ter in dede and dyeth, his wyfe shal haue
therof her dower. Also in such case of re-
lease of all ryght, howe be it that he to
whome the release is made ne hath any
thynge in the Franke tenement neyther
in dede nor in lawe, yet ꝑ release is good
ynoughe, as yf the dysseasoure haue let
lāde that he had by dysseasyn to another
for terme of his lyfe, sauynge the reuer-
cyon to him, yf the disseasy or his heyres
release vnto the dysseasour all the ryght
&c. That release is good, for this that he
to whom the release is made had in hym
reuercion at the tyme of ꝑ release made
In the same maner yf a lease be made to
a man

a man fo; terme of lyfe the remaynder to another to terme of lyfe the remayndze to the thyrde in the tayle, the remayndze to the fourth in fee, if a ſtraunger that hath the ryght vnto the lande releaſe all hys ryght vnto any of them in the remayndze, ſuche releaſe is good, fo; this ꝑ euery of thē hath a remayndze veſted in him ſelfe, yet ꝑ the tenaunt fo; terme of lyfe be diſſeaſed, & after that hath ryght (the poſſeſſion beynge in ꝑ diſſeaſour) releaſe vnto one of them to whome the remayndze was made all his ryght. &c. That releaſe is voyde, fo; that, that he ne had in him no remayndze in dede, but al onely a ryght of a remayndze, at the tyme of the releaſe made. Et nota, that euery releaſe made to him that hath a reuercion o; a remayndze in dede ſhall ſerue & helpe them that haue the Franke tenement, as well as them to whō the releaſe is made ꝑ the tenaūt haue the releaſe in his hande. &c. In the ſame maner a releaſe made to a tenaunt fo; terme of lyfe o; to a tenaunt in the tayle, ſhal enure vnto them in the reuercion, o; to the remayndze aſwell as to the tenaunt of Franke tenement, & ſhall haue great aduauntage of that, ꝑ ꝑ they may ſhewe it. Alſo ꝑ there be lo;de and tenaunt, and the tenaunt is diſſeaſed, and the diſſeaſy releaſeth vnto the diſſeaſour all the ryght ꝑ he hath in the ſeygnio;ye

or in the lande, the releaſe is good & the ſeygnory is extynct. And yf the goodes of the diſſeaſy be taken, and of thē the diſſeaſy ſueth a Replegiare agaynſt ỳ lorde, he ſhal compell the lorde to auowe vnto him, and yf he wyll auowe vpon the diſſeaſour, than vpon the matter ſhewed, ỳ auowry ſhalbe abated, for the dyſſeaſy is tenaunt to them in ryght and in lawe.

¶ Alſo yf lande be gyuen to a man in the taple reſeruynge vnto the donour & hys heyres a certayne rent, yf the done be diſſeaſed, and after the donour releaſeth to the donee all the ryght that he hath in ỳ lande, and after the donee entreth into ỳ lande vpon the dyſſeaſour, in this caſe ỳ rent is gone, for this that the dyſſeaſy at the tyme of the releaſe made was tenaūt in ryght and in lawe vnto the donour & the auowrye of kyne force ought to be made vpon him by the donour for the rēt behynde. &c. But yet nothynge of ỳ ryght of the lande that is to ſay of the ryght of the reuercion thine paſſeth nat by ſuch releaſe, for this that the donee to whom the releaſe was made thā he had nothyng in the lande, but onely a ryght, & ſo the ryght of the lande, ne maye nat paſſe by ſuche releaſe to ỳ done. In the ſame maner it is yf a leaſe be made to one for tyme of lyfe, reſeruynge to ỳ leſſour and to his

heyres

heyres certayne rent, yf the leſſe be dyſ=
ſeaſed, & after the leſſour releaſeth to the
leſſe, and to his heyres all the ryght that
he had in the lande, & after ỹ leſſe entreth
howebeit that in the caſe the rent is ex=
tincte, yet nothynge of the ryght paſſeth
&c. Cauſa qua ſupra.

¶ But yf it be bery lorde and bery tenaũt
and the tenaunt maketh a feoffement in
fee, the whiche feoffee neuer became te=
naunt to the lorde. &c. yf the lorde releaſe
to the feoffour al his ryght. &c. That re=
leaſe is in all boyde, for thys yᵗ the feof=
four hath no ryght in the lãde, & he is no
tenaunt in ryght to the lorde, but onely
tenaũt as for ỹ auowry to be made, & he
ſhal neuer compell the lorde to auowe v=
pon him, for the lorde may auowe vpon
him ỹ feoffee, yf he wyll it be, otherwyſe
it is where the bery tenaunt is dyſſeaſed
as in caſe aforeſayd, for yf ỹ bery tenaũt
that is dyſſeaſed holdeth of the lorde by
knyghtes ſeruyce, and dyeth, his heyres
beynge within age the lorde ſhal haue, &
ſeaſe the warde of ỹ heyre. And ſo he ſhal
nat haue the warde of the feoffour that
made the feoffement in fee, & ſo it is great
dyuerſyte betwene theſe two caſes.

¶ Alſo yf a man enfeoffe another in hys
lãde vpon truſt and to the entent that he
ſhal parforme his laſt wyll, and the feof=
four

four occuppeth yᵗ same at the wyll of his feoffes, & after the feffes release by theyr dede vnto the feoffoure all the ryght. &c. This hath ben in q̄styon yf suche release be good or nat, & some haue sayd yᵗ suche release is good, for this that no preuyte was bytwene the feoffes, and theyr feoffour, in so much that no lease was made after suche feoffement by the feoffes to their feoffour to holde at their wyll. &c. and some haue sayd the cōtrary and that for two causes. One is that whan suche feoffement is made vppon confydence to parforme the wyll of the feoffour, that it shalbe vnderstande by the lawe that ẏ feoffour by and by, ought to occuppe the lande, at the wyll of his feoffes, & so it is suche maner of preuyte bytwene them, asyf a man make a feoffement to another parson, & they incontynent vpon ẏ feoffement wyll say and graunt that the feoffour shal occupy the lande at theyr wyll. &c. Another cause they allege that if such lande be worth. xl. s̄. by yere. &c. Thā such a feoffour shalbe sworne in assises, and in other inquestes in ples reals, and also in plees parsonels of what great sōmes so euer that the playntyfes wyl declare. &c. And this is by the comon lawe of ẏ lāde Ergo this is for a great cause, & the cause is that ẏ lawe wyl that such feoffours & their

their heyres ought occuppe.&c. And to take therof the rent, and all the profytes and all maner of yssue, & reuenues.&c. As thoughe the tenemētes were their owne without interrupcyon of feoffees, natwstandynge suche feoffementes. Ergo the same lawe gyueth a preuyte bytwene suche feoffours, and their feoffes vpon cōfydence.&c. For which causes they haue sayd that the release made by such feoffes vpon cōfydence to the feoffour, or to hys heyres.&c. So occuppyenge the lande.&c. shalbe good ynoughe.&c. And this is the better oppynyon, as it semeth. Also releases after ẏ matter in dede somtyme haue theyr effect byforce to enlarge the estate of them, to whom the release is made, as yf I let certayne lāde to a man for terme of yeres, by force wherof he is possessed, and I release vnto him al the ryght that I haue in the lande without more wordes set or put in the dede, & delyuer vnto him the dede. Than he hath estate but for terme of his lyfe, & the cause is for this, that whan the reuercyon or the remayndre is in a man, the whiche wyll enlarge by his release the estate of the tenaūt.&c. He shal haue no greater estate but in the maner and forme. As yf such a releasour were seased in fee, and wyll by his dede make estate to one in a certayn forme.&c.

*It is holden l 15. H.7. Fo.2. Lesses that the feoffee haue an accyon of Trespas agaynst him yt hath yt vse.

And

And delyuer vnto him ſeaſyn by force of the ſame dede yf in ſuch dede of feoffement there be no worde of enheryptaunce.&c. Thā he hath eſtate but for terme of lyfe. &c. And ſo it is in ſuche releaſe made by him in ꝑ reuercyon,or in the remayndre for yf I let lande to a man for tme of lyfe and after I releaſe vnto him al my ryght without more ſayenge in the releaſe,his eſtate is nat enlarged. But yf I releaſe vnto him and to his heyres of his bodye engendred, than he hath Fee tayle, and yf I releaſe vnto him and to his heyres, than he hath Fee ſymple.So it behoueth in ſuche caſe to ſpecyfy in the dede what eſtate he to whō the releaſe is made ſhall haue.&c.And ſomtyme releaſe ſhal enure to ſet & put the ryght of him that maketh the releaſe to yim, to whome the releaſe is made.As a man is diſſeaſed & he releaſeth vnto the diſſeaſour all the ryght yᵗ he hath.In this caſe the diſſeaſour hath his ryght,ſo that where his eſtate before was wronge,nowe by ꝑ releaſe it is lawfull & ryght. But note well,that whan a man ſeaſed in Fee ſymple of any landes, or tenementes, and another wyll releaſe vnto him all the ryght that he hath in ꝑ ſame tementes,it nedeth nat to ſpeake of the heyres of him to whōe the releaſe is made, for this that he had Fee ſymple at

the

the tyme of the release made, for yf the release were made to him and to his heyres for one day or for one houre, thys shalbe as stronge vnto him in the lawe, as yf he had released to hym & to his heyres, for whan hys ryght was gone from hym at one tyme by hys release without any condicion. &c. to hym that had Fee symple it is gone for euer. But where a man hath a reuercion, or a remaynder in Fee symple at the tyme of the release made there yf he wyll release to the tenaunt for terme of yeres, or for terme of lyfe, or to the tenaunt in the tayle, it behoueth to determyne the estate that he to whom the release is made shal haue by force of ỳ same release. For this that such release goeth to enlarge the estate. &c. of hym to whom the release is made. But otherwyse it is where a man hath but a ryght vnto ỳ lande & hath nothynge in ỳ reuercion nor in ỳ remaynder in dede. For yf suche a man release al his ryght to one ỳ is tenaũt of ỳ frãke tenẽt al his ryght is gone though ỳ no mẽcion be made of ỳ heyres of him to whõ the release is made. For yf I let lande to a man for terme of lyfe, yf I after release vnto him for to enlarge his estate, it behoueth that I release vnto him & to his heyres of hys body engendred, or to him and to his heyres males of his body begotten or by suche semblable estate. &c.

or otherwyse he hath no greater estate than he had before. But yf my tenaūt for terme of life let the same lāde out to another for terme of the lyfe of his lesse, the remaynder vnto another in fee, nowe yf I release vnto him to whom my tenaunt letted for ẏme of lyfe I shalbe barred for euer, thoughe that no mēcion be made of his heyres, for this that at the tyme of ẏ release made I had no reuercion but one ly a ryght to haue the reuercion. For by suche a lease with a remaynder ouer that my tenaunt made, in this case my reuercyon is discontynued, and such a release shal enure vnto him in the remaynder to haue aduauntage of this, as well as to ẏ tenaūt for terme of lyfe, for to that entēt the tenaunt for terme of lyfe, & he in the remaynder be as one tenaunt in the law, and be as yf one tenaūt were sole seased in his demeane as of fee at the tyme of suche release made vnto hym. Also yf a man be disseased by .ii. yf he release vnto one of them, he shal hold his felowe out of the lande, & by suche release shal haue sole possessyon, & estate in the lande. But yf one dysseasour enfeoffe .ii. in fee, & the the dysseasy release to one of them, thys shal enure to both the sayd feoffees. And the cause of the dyuersyte bytwene these two cases is repugnaunt ynoughe.

Also

¶ Also yf I be dysseaseased, & the dissea-
sour is dysseased yf I release to ẏ dissea-
sour of my disseasour, I shal neuer haue
Assyse, nor entre vpon his disseasour, for
this that hys dysseasour hath my ryghte
by my release. &c. And so it semeth in thꝫ
case yt yf there were. xx. dysseasours eche
after other, & I release to the last dyssea-
sour, he shall barre all the other of their
accion & their title. And the cause is as it
semeth, for thys that in many cases whā
a mā hath a lawful tytle to entre though
he entre nat. &c. he shal defete al meane ty
tles by his release. &c. But this is nat in
euery cause, as shalbe sayde afterwarde.
¶ Also yf a man be dysseased the whiche
hath a sōne within age & dyeth, & beynge
the sonne within age, ẏ dysseasour dyeth
seased, & the lande discēdeth to his heyre
and a straunger abateth, & after the sōne
of the dysseasy, whan he cōmeth vnto ful
age releaseth all his ryght. &c. to the aba
tour. In this case the heyre of the dissea-
sour shall haue no assyse of Mortdaūster
agaynst the abatour, but he shalbe barred
of the assyse, for this that ẏ abatour hath
the ryght of the sonne of the dysseasy by
his release, & the entre of the sonne was
lawfull. &c. For this that he was within
age at the tyme of the discent. &c. But yf
a mā be disseased & the disseasour maketh

a feoffement vpon condycyon, that is to
say, to pelde vnto him certayne rent & for
defaut of payment a reentre. &c. yf the dis
seasy release to the feoffe vpon cõdicion,
yet this altereth nat the estate of ꝑ feoffe
vpon condicion as it was before. In the
same maner it is where a man is dysseas-
sed of certayne lande, and the dysseasour
graunteth a rent charge out of the same
lãde though that after the dysseasy relea
seth vnto the dysseasour &c. yet the rent
charge abydeth in his force. And ꝑ cause
is in these. ii. cases that a man shall haue
none aduauntage by such release yᵗ shalbe
agaynst his owne proper acceptaunce, &
agaynst his owne graunt. And though ꝑ
some haue sayd that where the entre of a
man is cõgeable vpon a tenaũt, yf the re-
lease to the same tenaunt that this auay-
leth vnto the tenaunt so as yf he had en-
tred vpon the tenaũt and after enfeoffed
him. &c. this is nat true in euery case for
in the fyrst case of these. ii. cases yf ꝑ dys-
seasy in fee entre vpon the feoffe vpon cõ
dicion and after enfeoffeth him, than the
cõdicion is all put aside & voyde. And in
the seconde case yf the disseasy entre and
enfeoffe him that graũted the rẽt charge
than is the rent charge auoyded. But it
is nat auoyded by any such release with
an entre made. &c. Also yf a man be desses
sed

fed by a chylde within age the which a-lyeneth in fee, & the alyenee dyeth seased and his heyre entreth beyng the dysseasour within age. Nowe it is in the elec-cyon of the dysseasour to haue a wryt of Dum fuit infra etatē. Or a wryt of Ryght agaynst the heyre of the alyene, & which wryt so euer he taketh of them he ought to recouer by the lawe. And also he may entre into the lande without any recou-uery, and in this case the entre of the dys seasy is taken away, but in this case yt ꝑ dysseasy release his ryght to the heyre of the alyenee, & after the dysseasour bryn-geth a wryt of Ryght agaynst the heyre of the alyenee, & he ioyneth the mese bpō the clere ryght. &c. The graunde assyse ought by the lawe to fynde ꝑ the tenāt hath moze clere ryght. &c. Than hath the dysseasour for thys that the tenāt hath the ryght of the dysseasy and his release whiche is moze auncyent and moze clere ryght than the ryght of the dysseasour, for by such releas all the ryght of ꝑ dys-seasy passeth vnto the tenāt, & is in the tenaunt. And to this some haue sayd that in suche case where a man hath ryght to lādes or tenementes but his entre is nat lawfull, yf he release vnto the tenāt. &c. Than suche release shal enure by way of extynguyshment. As vnto this it may be

sayd that this is trouth vnto him that releaseth, for by his release he hath dysmyssed him selfe clene of his ryght as to his ꝑson. But yet the ryght that he had may well passe & go vnto the tenaũt by his release, for it shulde be inconuenyent that suche an auncyent ryght shulde be extynct all vtterly. &c. for it is comonly sayd that ryght may nat dye. But a release ꝑ goeth by the way of extyngupsshement agaynst all ꝑsons, is where he to whõ the release is made may nat haue thys ꝑ vnto hym is released, as yf there be lorde, & tenaũt, and the lorde releaseth vnto the tenaunt all the ryght that he hath in the lordshyp or all the ryght that he hath in the lande &c. Suche a release goeth by waye of extyngupsshement agaynst all parsons, for this that the tenaũt may nat haue ꝑ same of him selfe. ¶ In the same maner is a release made to the tenaunt of the lande of a Rent charge or of a comon pasture, for this that the tenaunt may nat haue that, that vnto him is released. &c So such releases go away by extyngupsshement agaynst all parsons.

* A release in brynge by way of extin gupsshement.

¶ Also to proue that the graunde Assyse ought to passe for the demaundant in the case aforesayd. I haue herde often in the lecture vpon the statute of Westm. 2. that begynneth In casu quando vir amiserit per

per defaltam tenemētū qđ fuit ius vxoris sue.&c. That is at the comon lawe before the statute, yf a lease were made to tenaūt for terme of lyfe the remayndre out in fe and a straunger by a fayned accyon recouer agaynst the tenaunt for terme of lyfe by defaut, & after the tenaūt dyeth, he in the remayndre had no remedy before the statute, for this that he had no possession of the lande, but yf he in the remayndre had entred vpon the tenaūt for terme of lyfe and dysseased him, & after the tenaūt entreth vpon him, & after the tenaunt for terme of lyfe leaseth by suche recouere had by defaut, & dyeth, nowe he in the remayndre may well haue a wryt of Ryght agaynst him that recouered, for this that the myse shalbe ioyned only vpon ẏ clere ryght. And yet in this case the seasyn of him in the remayndre, was defeted by the entre of ẏ tenaunt for terme of lyfe. But parauēture some wyl argue & say that he shal haue no wryt of Ryght in this case, for this that whan the myse is ioyned in suche maner, that it to say, yf the tenaunt haue more clere ryght to the lande in the maner as it is holden, than the demaundant hath in the maner as he demaūdeth And for this that the seasyn of the demaūdant was defeated by the entre of the tenaunt for terme of lyfe, than he hath no

* The effect of these

wordes modo et forma.

tyght in the maner as he demaundeth: Unto this it may be sayd that these wordes (modo & forma put. &c.) In many cases be wordes of maner of pledynge & no wordes of substance, for yf a man bringe a writ of Entre (in casu prouiso) of alyenacion made by the tenaunt in dower to his dysinherytaunce, & pleadeth of the alyenacion made in fee, & ꝑ tenaũt sayth ꝑ he alyened nat in ꝑ maner as the demaũdaunt hath declared, & vpon this they be at yssue, & it is founde by verdyt that the tenaunt alyened in the tayle, or for tme of anothers lyfe, the demaundaunt shall recouer, & yet ꝑ alyenacyon was nat in ꝑ maner as the demaũdant hath declared. ¶ Also yf there be lorde & tenaunt, & the tenaunt holdeth of the lorde by fealte only, and the lorde dystraynerth the tenaũt for rent, and the tenaũt bryngeth a writ of Trespas agaynst his lorde for hys catayll so taken, & the lorde pleadeth ꝑ the tenaũt holdeth of him by fealte & certayne rent & for ꝑ rent behynde he came to dystrayne. &c. And demaundeth iudgement of the writ brought agaynst him. Quare vi et armis. &c. And the other sayth that he holdeth nat of him in the maner as he supposeth, and vpon this they be nat at yssue, and it is founde by verdyte that he holdeth of hym by fealte, tantũ: in thys

case

case the wryt shal abate, and yet he helde nat of the lorde in the maner as the lorde had sayd, for the matter of ẏ issue is whether ẏ tenaũt holdeth of him or nat. For yf he holde of him thoughe the lorde dystrayne for other seruyces that he ought nat to haue, yet suche wryt of Trespas Quare vi et armis. &c. lyeth nat agaynst the lorde but shal abate.

Also in a wryt of Trespas of berynge or of goodes takẽ, yf the defendant plede nothynge culpable in the maner as the playntyfe supposeth, & it is foũde that ye defendant is culpable in another towne or at another day than the playntyfe supposeth, yet he shal recouer. And in many mo other cases these wordes (that is to say in the maner as the demaundaunt or the playntyfe hath supposed) be no matẽ of substaunce of that yssue, for in a wryt of ryght where the myse is ioyned vpon the clere ryght, it is as muche to say and to suche effect that is to wyte, whether hath the more ryght the tenaunt or the demaũdant to ẏ thynge so demaũded &c.

¶ Also yf a mã be dysseased, & the disseasour dye seased. &c. And his sõne entreth in by discẽt, & the disseasy entreth vpon ẏ heyre of the dysseasour, the which entre is dysseasy. &c. yf the heyre brynge assyse or a wryt of Ryght agaynst the dysseasy

Fynall iudgement in a writ of right

he shalbe barred. For this that whan the graunde assyse is sworne, their othe is vpon the clere ryght & nat vpon the possessyon. &c. For yf the heyre of the dysseasour had brought assyse of Nouel dysseasin or a writ of Entre in nature of assyse and recouered agaynst the disseasy & sued execucyon, yet may the dysseasy haue a writ of Entre in the Per agaynst him of the dysseasyn made vnto him by hys father, or he may haue agaynst the heyre a writ of Ryght. But yf the heyre ought to recouer agaynst the dysseasy in ỹ case aforesayd by writ of Ryght, than all his ryght shalbe clerely gone, for this that a fynall iugement shulde be gyuē agaynst him which shulde be agaynst reson wher the dysseasye hath more clere ryght. &c. And knowe ye my cōne that in a writ of Ryght after this that the .iiii. knyghtes be chosen in the graūde assyse, than ther is no greater delay than a writ of Forme don after thys that the partyes be at an yssue. &c. And yf the myse be ioyned vpon batayle, than there is lesse delay

☞ Also a release of all the ryght. &c. In some cases is good made him that is supposed tenaunt in ỹ lawe though he hath nothynge in the tenementes as in a Perципe cō reddat, yf the tenaunt alyen the lande hangynge the writ, & after the demaū-

maundant releaseth to him all his ryght that release is good, for this yᵗ he is supposed to be tenaũt by ẏ sute of the demaũdant, & yet he hath nothynge in ẏ lãde at the tyme of the release made. In the same maner it is yf in a Precipe qđ reddat, the tenaunt bouche, and the bouche enter in the garranty, yf after the demaundaunt release to the bouche all hys ryght. &c. This is good ynoughe, for this that the bouche after thys that he hath entred in the garranty is tenaunt in lawe to ẏ demaundant.

¶ Also as to releases of acccyons reals & accyons parsonels it is so that some accyons be myxte in the realte & in the parsonalte, as yf an accyon of Wast be sued aagaynst the tenaũt for terme of lyfe, this accyon is in the realte, for this that the place wasted shalbe recouered, and also it is in yᵉ parsonalte, for this that treble damages shalbe recouered for ẏ wronge, and wast done by the tenaunt, & for thys in this accion a release of accyons reals, is a good ple in barre, and so is a release of accions parsonels. In the same maner it is in Assyse of Nouel dysseasyn, for thꝫ that it is myxte in the realte & in the parsonalte. But yf suche assyse be arrayned agaynst the dysseasour, the tenaũt of the dysseasour may plede a release of accions

parcenals for to barre the aſſyſe, but nat a releaſe of accyons reals, for none ſhall plede a releaſe of accyons reals in aſſyſe, but the tenaunt. &c.

¶ Alſo in ſuch accyons that behoueth to be ſued agaynſt the tenaunt of the frāke tenement yf the tenaūt haue a releaſe of accyons reals of the demaundaunt made vnto him before the wryt purchaſed, and he pledeth it, this is a good ple for the demaundant to ſay, that he that pledeth, yᵗ plee had nothynge in the franke tenemēt in tyme of ꝑ releaſe made, for ꝑ he had no cauſe to haue accyon reale agaynſt hym.

¶ Alſo in ſuche caſe where a man maye entre in lādes or tenemētes, he may haue of this an accyon real which is gyuen to him by the lawe agaynſt the tenaunt. As in this caſe the demaūdant releaſe to the tenaunt al maner accyons reals, yet this taketh nat away the entre of the demaūdant, but the demaūdant may well entre. Natwithſtandynge ſuch releaſe for this that nothynge is releaſed but the accyon &c. In the ſame maner it is of thynges ꝑſonels. As yf a man wrongfully take my goodes, yf I releaſe vnto him al accyons perſonels, yet I may by ꝑ lawe take my goodes out of his poſſeſſyon.

¶ Alſo yf I haue cauſe to haue a wryt of Detynue of my goodes agaynſt another though

though that I release vnto him for al accyons plonels, yet I may take my goodes out of his possessyon, for this ꝑ no ryght of goodes is released to him but onely ꝑ accyon. ꝛc. Also ꝑt a man be dissesed, and the dysseasour maketh a feoffement vnto dyuers parsons to his vse, & the dysseasour contynually taketh the profites. ꝛc. And the dysseasye releaseth vnto him all accyons reals, and after he sueth agaynst him a wryt of entre in nature of assise by cause of ꝑ statute for thys that he taketh the profytes. Enquyre howe the dysseasour shalbe holpen by the sayd release, for ꝑt he wyll pleade the release generally, than the demaundant may say that he had nothynge in the franke tenement at the tyme of the release made, & ꝑt he plede ꝑ release specyally, thā it behoueth him to knowe a dysseasyn, & than may ꝑ demaundant enter in the lande. ꝛc. by his cognysaunce of the dysseasyn. ꝛc. But parauenture by especiall pledynge he may be barred of the accyon ꝑt he sueth. ꝛc. thoughe that the demaundant may enter. ꝛc.

¶ Also ꝑt a man sue appele of felony of ꝑ death of his auncester agaynste another though the appellaunt release vnto the defendaunt all maner accyons reals and parsonels, this shal nat helpe ꝑ defēdant for thys that this apple is nat an accyon

reale

reale in ſo much that the appellaūce ſhal nat recouer any realte, nor ſuche appele is no accyon perſonell. Jn ſo much that the wronge was vnto his auncestre and nat vnto him, but yf he releaſe to the defendant all maner of accyons, thā it ſhal be a good barre in the appele, & ſo a man may ſe that a releaſe of a maner of accyons is better than releaſe of all maner of accyons and perſonels. &c.

¶ Alſo in appele of robbery yf the defendant wyl plede a releaſe of the appellaūt of accions perſonels, this ſemeth no ple, for an accyon of appele where the appellaunt ſhal haue iudgement of death. &c. Jt is more hyghe than an accyon perſonel and it is nat properly ſayd an accion perſonel, and therfore yf the defendant wyll haue a releaſe of the appellaunt to barre him of ꝑ appele it behoueth him to haue a releaſe of al maner of accions of appele of releaſe or of al maner of accyons as it ſemeth. &c. But in appele of mayme a releaſe of al maner of accyons perſonels is a good ple in barre, for this that in ſuch an accyon he ſhal recouer but damages.

¶ Alſo yf a mā be outlawed in an accion perſonel by proceſſe of the orygynal and bryngē a wryt of Errour, yf he at whoſe ſute he was outlawed wyl plede agaynſt hym a releaſe of accyons perſonels this ſemeth

semeth no plee, for by the sayd accyon he shal recouer nothynge in the personalte but al onely to reuerse the outlawry, but a release of a wryt of Errour shall be a good ple. &c.

¶ Also yf a man recouer det or damage & he release to the defendaunt all maner of accyons, yet he may lawfully sue execucyon by Capias ad satisfaciend or by Elegit, or by Fieri facias, for execucyon by such wryt may nat be sayd an accion, but yf after a yere & a day the playntyfe wyll sue a Scire facias to haue execucyon. &c. Than it semeth a release of accyons shal be a good ple in barre, but some haue thought the contrary, in so much that ye wryt of Scire fac is a wryt of execucyon and isto haue execucion. But in so much that vpon the same wryt the defendaunt may plede dyuers matters after the iudgement gyuen to put him fro execucyon as outlawry & dyuers other. Therfore it may wel be sayd accion. &c. And I trowe that in a Scire facias out of a fyne a release of all maner of accyons is a good ple in barre, but where a man hath recouered det or damage & it is accorded betwene them that the playntife shalbe put out from accyon, than it behoueth that ye playntyfe make a release to him of all maner of accyons.

Also

* A release of all demaũdes

¶ Also yf a man release to another al maner demaũdes, thys is ỹ moste best release that he to whome the release is made can haue & most shal enure to his aduauntage for by such release of al maner of demaũdes, all maner of accyons reals & personels, and accyons of appelles be gone & extynct, & al maner of executions be goñ and extynct. And yf a man had tytle to entre in any landes or tenementes, by such release his tytle is gone, & yf a man haue rent seruyce or rent charge, or comon of pasture. &c. by suche release of all maner demaũdes to the tenaũt of the lãde wher of the seruyce or the rent is goynge out, or in what lande soeuer the comon be, ỹ seruyce and rent, and the comon is gone and extynct. &c.

¶ Also yf a mã release to another all maner quarels, or all cõtrauersyes or debat betwene thẽ. Enquyre to what matter & to what effect suche wordes extende.

¶ Also yf a man be bounde by his dede to another in certayne somme of money to pay at the feast of S. Mychell than next folowynge. &c. yf the oblyge before the sayd feast release to the oblygour all accyons, he shalbe barred of the dutye for euer, & yet he myght haue no accyon at ỹ tyme of the release made. But yf a mã let lãde to another for tme of yeres to yelde

at

at the feaſt of S. Mychel next enſuynge xl.ſ. and befoze ꝑ ſame feaſt he releaſeth to the leſſe all accyons, yet after the ſame feaſt he ſhal haue an accyon of Det foz ꝑ nonpayment of the .xx.ſ. Notwithſtandynge the ſayd releaſe. Study the cauſe of the dyuerſyte betwene theſe two cauſes.

Study out the cauſe.

¶Alſo where a man wyll ſue a wrytte of Ryght it behoueth that he plede of the dyſſeaſyn of hym oz of his auncеſter, and alſo that the ſeaſyn was in ꝑ tyme of the ſame kynge as he pleadeth in his ple, foz thys is an auncyent lawe vſed as it appereth by repozt of a certayne plee in ſuche fourme as enſueth. Syz Johñ Barry brought a wrzyt of Ryght agaynſt Raynolde Aſchlyngton and demaunded certayne tenementes. ꝛc. the myſe was ioyned in ꝑ banke, & the oꝛygynal & the ꝓceſſe were ſent befoze Juſtyces errantes where the ꝑtyes came & the .xii. knyght⁊ were ſwoꝛne without chalenge of ꝑ partyes to be alowed, foz this that the eleccyon was made by aſſent of the partyes with the foure knyghtes, and the othe was ſuche that I ſhal ſay trueth. ꝛc. whether R. of A. haue moze ryght to holde ꝑ tenementes that Johñ Barrye demaundeth agaynſt hym by hys wrzyt of Ryght oz Johan to haue the tenementes as he demaundeth

demaundeth, and for nothynge to let to say the trueth as God me helpe. &c. without sayenge to theyr estemynge & suche othe shalbe made in attaynt & in batayle and inwagynge of lawe, for those do euery thynge vnto an ende. But Johñ barry pleded of the dysseasyn of one Raufe his auncester in tyme of kyng Henry, & Raynolde vpon ẏ myse ioyned, tẽdered halfe a marke for the tyme. &c. And vpon thys sayd Clere, Justyce at the graunde assyse after thisthat they were charged vpon ẏ clere ryght. Good man Raynolde gaue halfe a marke to the kynge to the entent that he fynde that the auncestre was nat seased in tyme that the demaũdant hath pleded no further vpon the ryght & for this ye shall say to vs whether the auncester of Johñ Rauf by name was seased in the tyme of kynge H. as he hath pleded or nat, & yf ye fynde that he was nat seased in ẏ tyme, ye shal enquyre nomore and yf ye fynde that he was seased, than enquyre further of the ryght & after the graunde assyse came with theyr verdyt, and sayenge that Raufe was nat seased in the tyme of kynge H. wherby it was awarded that Raynolde shulde holde ye tenemẽtes agaynst him demaũded to him and to his heyres quite of Johñ Barry & his heyres to ẏ remenaũt, & Johñ in the mercy.

Inquir to what purpose an halfe marke shalbe offered ĩ a wryt of right

Con-

¶Conſyrmacyon. Cap.ix.

Dede of cõſyrmaciõ is moſt comonly in ſuche ſorme or to ſuch effect. Nouerint vniuerſi. &c. me A. de B. ratificaſſe approbaſſe et confirmaſſe C. de D. ſtatum et poſſeſſiõ quos habeo de et in meſuagio. &c. cũ pertiñ in M. And in ſome caſe a dede of cõfirmacyon is good & bayſable, & wher in the ſame cauſe a dede of releaſe is nat good nor bayſable As I ler lãde to a mã for terme of his lyfe, the which letteth ꝑ ſame lãde to another for. xl. yeres, by fors of the whiche he is poſſeſſed, yf I by my dede confirme the ſtate vnto the tenaunt for terme of yeres, & the tenaũt for terme of lyfe dyeth durynge ꝑ terme of his yeres may nat entre in the lande durynge ꝑ ſame terme, yet yf I by my dede of releſe haue releaſed to the tenaunt for terme of yeres in the lyfe of the tenaunt for terme of lyfe, the releaſe ſhalbe boyde, for thys that than no ꝓpuyte was betwene me & the tenaũt for terme of yeres for releaſe is nat auayſable to the tenannt for terme of yeres, but where a ꝓcuite is betwene him, and him that releaſeth. In the ſame maner is yf I be diſſeaſed & the diſſeaſour maketh a releaſe to another for tme of yeres. Alſo yf I be diſſeaſed & I con-

kirme the state of the dysseasour. than he hath a good & ryghtful estate in Fee symple thoughe that in the dede of cõkyrmacyon no mencyon is made of his heyres, for this that he had Fee symple at ꝑ tyme of the conkyrmacyon. for in suche case yf the dysseasy conkyrme the state of the dysseasour to haue & to holde to him for tme of his lyfe, yet ꝑ dysseasour hath Fee symple & is sealed in his demeane as of fe for this that whan hys estate was cõfirmed he had Fee symple & in such dede he may nat chaunge hys estate without entre vpon him. &c. In the same maner is yf the estate be confirmed for terme of a day or for terme of another he hath a good state in Fee symple Or cõfirmare firmũ facere Also yf .ii. be dysseasours & the dysseasye releaseth to the one, he shal holde his felowe out of the lande, but yf the dysseasy cõkyrme the estate of the one wout more speche in the dede, some say that he shall nat hold his felowe out, but he shal hold ioyntly with him, for this that nothyng was cõkyrmed but his estate ꝑ was ioynt and for thys some haue sayd that yf two ioyntenauntes be & the one cõkyrmeth ꝑ estate of the other, yᵗ he hath but a ioynt estate as he had before, but yf he haue in the wordes in the dede of conkyrmacyon to haue & to holde to him & to his heyres

all

all the tenementes whereof mencyon is made in the confyrmacyon, than he hath estate sole in the tenemētes, & therfore it is a good & a sure thynge in euery cōfyrmacyon to haue these wordes to haue & to holde ẏ tenemētes &c. in fee or in Fee tayle, or for terme of lyfe. or for terme of yeres after as the cause or the matter is, for the entent of some yf a man let lande to another for terme of lyfe. & after cōfyrmeth his estate by these wordes to haue and to holde his estate to him and to hys heyres, this cōfyrmacyon as concernyng his heyres is voyde, for his heyres cānat haue his estate which was but for terme of lyfe, but yf he confyrme hys estate by these wordes to haue ẏ same lāde to him and to his heyres, this cōfyrmacion maketh Fee symple in this case to him in yt lande. for this that they haue & holde. &c. goeth to the lande & nat to the estate that he hath. &c. Also yf I let certayne lāde to a woman sole for terme of her lyfe the which taketh a husbande, & after I confyrme the estate to the husbande & to the wyfe for terme of theyr. ii. lyues, in thys case the husbande holdeth nat ioyntly wt the wyfe, but holdeth ẏ ryght of his wyf for terme of his lyfe, but this cōfyrmacyon shal enure to the husbande by waye of remayndre for terme of hys lyfe yf he

furvyue his wyfe, but yf I let lande to a woman sole for terme of yeres which taketh a husbande, & after I confyrme the state to the husbande & the wyfe for terme of both theyr lyues. in this case they haue ioynt estate in the fraūke tenement of the lande for this that the wyfe had no fraūke tenemēt before. Also if a pson of a church charge ꝑ glebe of his church by his dede and the patron, and ꝑ ordynary cōfyrme the same graunt and all that is cōprysed within the same graunt, than the same graunt shalbe in his strength after ꝑ purpose of the same graunt, but in such case it behoueth yt the patron haue fee symple in the auoudō, for yf he haue estate in the auouson for terme of lyfe or in tayle, than the graunt shalbe but durynge hys lyfe and the lyfe of the parson that graūted it. &c. Also yf a man let lande for terme of lyfe, whiche tenaunt for terme of lyfe chargeth the lāde with a rent in fee, & he in the reuercyon confyrmeth the same graunt, this charge is good ynough and effectuall. Also yf the ordynary hath nothynge to medle nor to do, the patron of the chauntery, and the chaplayne of the same chaūtery may charge ꝑ chaūtery wt a rent charge in ꝑpetuyte. Also in some case these verbes dedi et concessi haue ye same effect in substance & shal enure to ꝑ entent

enteent as this verbe cõfirmau', as yf I be dysseased of a ploughe lande & after I make suche a dede.&c. Sciant presentes. &c. Quod dedi, to the dysseasour the sayd plough lãde.&c. And I delyuer al onely ỹ dede to him without lyuere of seasyn of the lande, that is a good confyrmacion, & as stronge in the lawe as yf he had in the dede this verbe confirmaui.&c. Also yf I let lande to a man for terme of yeres, by force of whiche he is possessed, & after I make to him a dede.&c. Quod dedi vel cõcessi.&c. The same lande to haue for tme of his lyfe and delyuer him his dede, thã by and by he hath estate in the lande for terme of his lyfe, & yf I say in the dede to haue to him & to his heyres of his bodye engendred, he hath estate in the fayle, & yf I say in the dede to haue and to holde to him & to hys heyres, he hath estate in Fee symple, for this shal enure to him by force of cõfyrmacion to enlarge his estat Also yf a mã be dysseased, and the dysseasour dyeth seased, and his heyre is in by dyscent, & after the dysseasy the heyre of the dysseasour make ioyntly a dede to another in fee, & lyuere of seasyn vpõ this is made: as to the heyre of the dysseasour that enseasleth the dede, the tenementes passe by ỹ same dede by way of feoffemẽt and as to the dysseasy that enseaseth the

same dede, this shal nat enure but by way of conkrymacyon, but yf the dysseasye in this case bynge a writ of Entre in the (per & cui) against the alyene of ꝑ herre of the dysseasour, enquyre howe he shall plede the dede against the demaundant by way of conkrymacyon. &c. And knowe ye this my childe that it is one of the most honourable, laudable, & profytable thynge in our lawe to haue the Science of well pledynge. in accyons reals & personals, and for this I counsayle the in specyall to set thy courage and cure to lerne that. Also yf there be lorde and tenaunt, & the lorde conkrymeth the estate yt the tenaũt hath in the tenementes, yet the seygnory holly abydeth to the lorde as it was before. In ꝑ same maner it is, yf a mã haue a Rent charge out of a certayne lande, & he cõkrymeth thestate that the tenaũt hath in the lande, yet abydeth to the cõkrymer the rent charge. In the same maner it is yf a man haue comon of pasture in ꝑ lãde of any other, yf he conkrymeth thestate of ꝑ tenaunt of the lande (nothynge shall departe fro him of his comon) but this nat withstandynge ꝑ comon abydeth to him as it was before.

* The brefyte of pleadynge.

¶ But yf there be lorde & tenaũt whiche holdeth of hie lorde by seruyce of fealte, and .xx.s. of rent, yf the lorde by his dede conkrymeth

confyrme the state of the tenaũt to holde by.xii.d.i.d. or by an ob. In this case the tenaũt is discharged of all other seruyce and shal yelde nothynge to the lorde but that, that is cõprysed within the same cõfyrmacyon, yet yf the lorde wyll by the dede of confyrmacyon that the tenaũt in this case ought to yelde to him an Hauk or a Rose yerely at such a feast &c. Thys reseruacyon is boyde, for this that he reserueth to him anewe thynge that neuer was parcell of the seruyces before the cõfyrmacyon, & so the lorde may abbrydge the seruyces by such cõfyrmacion, but he may nat reserue to him a newe seruyce.

¶ Also yf there be lorde, meane, & tenaũt and the tenaunt is an abbot that holdeth of the meane by certayne seruices yerely the whiche hath no cause to haue a quytaunce agaynst his meane for to brynge a wryt of Meane. &c. In this case yf the meane confyrme the state that the abbot hath in the lande, to haue and to holde ẏ lande vnto hym and hys succe Tours in Franke almoygne, or fre almes. &c. In this case this confyrmacion is good, and than the abbote holdeth of the meane in franke Almoygne, & the cause is for this that no newe seruyce is reserued, for all the seruyces specyally specyfyed, be extyncte, and nothynge is reserued to the

meane,

meane, but ꝑ abbot shal holde of the lade and that was before the confyrmacyon, for he that holdeth in frauke almoygne ought to do no bodely seruyce, so that by suche confyrmacyon it appereth that the meane shal reserue vnto him no newe seruyce, but that the lande shalbe holden of him as it was before, and in this case the abbot shal haue a wryt of meane ꝑ he be dystrayned in his defaute by force of the sayd cõfirmacion, where ꝑase he myght nat haue suche a wryt before. &c.

¶ Also ꝑ I be seased of a vyllayne as of a vyllayne in grosse, and another taketh him out of my possession claymynge him to be his vyllayne, and after I confyrme vnto him the state that he hath in my vyllayne, this confyrmacyon semeth voyde, for this that none may haue possessyon of a man as of a vyllayn in grosse, and in so much that he to whõ the confyrmacyon was made was nat seased of hym as of his vyllayne at the tyme of the cõfyrmacyon, suche confyrmacyon is voyde, but in this case ꝑ suche wordes were in the dede. Sciatis me dediſſe et confirmaſſe tali &c. talem villanũ meũ. This is good but this shall enure by force and way of graunt, and nat by way of confyrmacion &c. Also sometyme these verbes (dedi & concessi) enure by way of extynguysshement.

Extynguysshement.

ment of the thynge gyuen or graunted. As a tenaunt holdeth of his lorde by certayne rent, & the lorde by hys dede grauteth to the tenaunt and to his heyres the rent. &c. This shal enure to the tenaũt by way of extyngupshmẽt, for by this graũt the rent is extyncte. In the same maner it is where one hath a rent charge of certayne lande & he graunteth to the tenaũt of the lande the Rent charge, & the cause is for this that it appereth by the wordes of the graunte that the wyll of ỹ donour is that the tenaunt shal haue ỹ rent &c. in so much that he may haue no rente out of hys owne lande, for this the dede shalbe vnderstande and taken for ỹ most aduauntage and auayle of the tenaunt ỹt it may be, & that is by way of extyngupsh ment. Also yf I let lãde to a man for tme of yeres and after I conkyrme his estate without mo wordes put in the dede, he hath no greater state but for terme of yeres as he had before, but I yf release to hym my ryght that I haue in the lãde vỽ out more wordes put in the dede, he hath estate of Franke tenement, and so mayst thou my chylde vnderstande great dyuersytes betwene releses & conkyrmacyons And yf I be within age and let lande to one for terme of.xx. yeres and he grauneteth the lãde for terme of.x. yeres so that

graunt is but parcel of his terme. In thy
case whan I am of full age yt I release
vnto the graunte of my lesse. &c. Thys
release is voyde for this that there is no
prouyte betwene him and me. But yf I
conkyrme his estate, than this conkyrma-
cyon is good, but yf my lesse graunt all
his estate to another, thā my release made
to the graūtee is good & effectual. Also yf
a man graunt a Rent charge out of hys
lande to another for terme of hys lyfe &
after I cōkyrme hys estate in ỳ sayd rent
to haue & to holde to in him Fee tayle or
in Fee symple, this cōkyrmacion is voyd
as to enlargynge of his estate, for this yt
he that conkyrmed had no reuercion in ỳ
rent, but yf a man sealed in fee of Rent
seruyce or of Rent charge, and he graun
teth the rent to another for terme of lyfe
and tenaunt attourneth, and after he con
kyrmeth the estate of the grauntee in Fee
tayle or in Fee symple, this cōkyrmacion
is good as to enlarge his estate after the
wordes of the dede of conkyrmacyon, for
this that he that conkyrmed the estate at
the tyme of the conkyrmacyon had the re
uercyon of the rent. &c. But in the case a
foresayd where a man graunteth a Rent
charge to another for terme of lyfe yf he
will that the grauntee shall haue estate
in the tayle, or in fee, him behoueth that
the

the dede of ẏ graunte of the Rent charge for terme of lyfe be resurrendred or coũcelled, and than to make a newe dede of suche a Rent charge to haue & to take to the graũte in the tayle or in fee (Ex paucis dictis plurima intendere potes).

¶ Attournement. Cap.x.

ATtournement is yf there be lorde and tenaũt, & the lorde wyl graunt by his dede the seruyce of his tenaunt to another for tme of yeres or for terme of lyfe, or in tayle or in fee, him be houeth that the tenaunt attourne to the graunte in the lyfe of the grauntour by force and vertue of the graunte, or other wyse the graunt is voyde, and attournement is none other thynge in effect, but whan the tenaunt hath herde of ẏ graũt made by his lorde, that the same tenaunt by worde agree to the sayd graunt, as to say to the graũtee, I agree me to ẏ graũt made to you. or I am wel content of the graunt made to you. &c. But the more comon attournement is to say. Syr I attourne to you by force of the same graũt or I become your tenaunt. &c. or to delyuer vnto the graunte a peny. ob. or farthynge by way of attournement. &c.

¶ Also yf a mã be leased of a maner whiche maner is parcell in demesne & parcel in seruyce yf he wyl alyen such maner to another

another, it behoueth that by force of the alyenacyon all the tenauntes that holde of the alyenour as of hys maner. &c. attourne to the alyene or otherwyse the seruyces abyde cõtynually in ꝑ alyenour except tenãtes at wyll. for it nedeth nat the tenauntes at wyl attourne vpon such alyenacyon. &c. for this that the same lãdes or tenemẽtes that they holde at wyll do passe to the alyence by force of suche alyenacyon.

Tenere in suspence.

¶ Also yf there be lorde and tenaunt and the tenaunt letteth the tenemẽtes to a mã for terme of lyfe ꝑ remayndre to another in fe, yf the lorde graunt the seruyces to the tenãt for terme of lyfe in fee, in this case the tenaunt for terme of lyfe hath fe in the seruyces, but seruyces be put in suspence durynge his lyfe but hisheyres shal haue the seruyces after his deth, and in that case it nedeth nat an attournemẽt for by the acceptaunce of the dede of him that ought to attourne, this is attournement in him selfe. &c. But where the tenaunt hath asgreat & hyghe estate in the tenemẽtes as the lorde hath in the seygnoury, in suche case yf the lorde graunt ꝑ seruyce vnto the tenaunt in fee, this enureth by way of extynguyshement (Causa patet)

¶ Also yf there be lorde and tenaunt and the

the tenauntmaketh a lease to one for t̃me of lyfe sauynge the reuercyon vnto hym yf the lorde graunt the seygnoury to the tenaunt for t̃me of lyfe in fee, in this case it behoueth that he in the reuercyon attourne to the tenaũt for terme of lyfe by force of that graunt, or otherwyse the graunt is boyde, for thys that he in the reuercyon is tenaunt vnto the lorde.

¶ Also yf there be lorde and tenaunt and the tenaũt holdeth of the lorde by.xx. maner of seruyces, and the lorde graunteth his seygnory to another yf the tenaunt pay or do any of the seruyce to ẏ graũtee this is a good attournement of and for ẏ seruyces thoughe that the tenauntes entent was to attourne but of the same parcell for this that the seygnory is an holy thynge thoughe that there be dyuers maner of seruyces yt the tenaũt ought to do

¶ Also yf there be lorde & tenaunt & the tenaũt holdeth of the lorde by many maner of seruyces and the lorde graunteth the seruyces to another by fyne, yf the graunte sue a Scire facias out of ẏ same fyne for any parcell of the seruyces, and hath iugement to recouer, this iugemẽt is a good attournement in the lawe for all the seruyces. Attournemẽt.

¶ Also yf the lorde of the rent graunteth the seruices vnto another, and ẏ tenaunt

attourneth

attourneth by a peny, and after ẏ graũte dystrayneth for rent behynde, and the tenaunt to him maketh rescous. In thys case the graunte shal nat haue assyse of ẏ rent, but he shall haue a wryt of Rescous for yͥ the gyft of ẏ peny was but by way of attournement. But yf the tenaunt had gyuen vnto the graunte the sayd peny as parcell of ẏ rent or an halfe peny or a far thyng by way of seasyn of the rent, than this is a good atttournement and also it is a good seasyn to the graunt of ẏ rent. And than vpon suche rescous the graunt shal haue assyse. &c.

¶ Also yf a mã let tenementes for terme of yeres by force of which the lesse is seased, and after the lorde graunteth by hys dede of the reuercion for terme of lyfe or in tayle, or in fe, it behoueth in this case that ẏ tenaũt for terme of yeres attourne or otherwyse nothynge passeth suche graunt by suche dede, & yf in this case yͥ tenaunt for terme of yeres attourne to ẏ graunte, than by and bypasseth the frãke tenement on the graunt by suche attournement without any lyuery of seasin. &c. For this yf any lyuere shalbe made or nedeth to be made in such case, than the tenaunt for terme of yeares shalbe at tyme of the lyuere of seasyn out of his possessyon which shulde be agaynst reason.

Also

¶ Also yf lande be let to a man for terme of yeres the remayndre to another for terme of lyfe reseruynge to the lessour a certayne rent by yere, & lyuere of seasyn is made vpon this to the tenaunt for tme of yeres, yf he in the reuercyon in suche case graunt his reuercion to another. &c. and the tenaunt that is in the remayndre after the terme of yeres attourneth, this is a good attournement, and he to whõe the reuercion is graũted by force of such attournement shall dystrayne the tenaũt for terme of yeres for the rent due after suche attournement though the tenaunt for terme of yeres neuer attourned vnto him, and the cause is for that where the reuercyon is dependant vpon the statute of Franke tenement, it suffyseth that the tenaunt of the Frãke tenement attourne vpon such graunt of reuercyon. &c. And it is to wyte that where a lease for terme of yeres or for terme of lyfe or gyft in the tayle is made to any man reseruynge to suche a lessour or donour certayne rent, yf such a lessour or donour graunt his reuercyon to another, & the tenaunt of the lande attourne, the rent passeth to the grautie thoughe in the dede of the graũt of reuercyon no mencyon is made of the rent, for this that the rent is incydent to the reuercyon in suche case, and nat ecõ-

uerso

nerso. for yf a man wyll graunt the rent in such case vnto another, reseruynge to him the reuercyon of the lande, thoughe the tenaunt attourne to the graūte, thys shalbe but a rent Secke. &c.

¶ Also yf a man let lande to another for terme of lyfe, and after suche lease he cō-fyrmeth by a dede thestate of the tenaunt for terme of lyfe, the remaynder to another in fee, & the tenaūt for terme of lyfe accepteth the dede, thā is the remaynder in dede to him to whome the remaynder was gruen or lympted in the same dede for by the acceptaunce of the tenaunt for terme of lyfe of the same dede, thys is a graunt of hym & so an attournement in lawe, but yet he in the remaynder shall haue none accion of wast nor of other be nefyte by such remaynder, but yf that he haue ꝑ same dede in his hande, by which the remaynder was graunted vnto him, and for this that in suche case ꝑ tenaunt for terme of lyfe wyll retayne to him the dede, to the entent that he in ye remayn-der shal haue an accyon of Wast agaynst him, for this ye he may nat come to haue the possessyon of the dede. &c. It shalbe good in suche case for him in ye remayn-der that a dede endented be made by him that wyll make the confyrmacyon, & the remaynder ouer. &c. And ye he ꝑ maketh

suche

suche confyrmacyon delyuer a part of yᵗ endēture to the tenaunt for terme of lyfe and the other part to him yᵗ hath the remayndre.&c. And than he by shewyng of the part of the endēture may haue an accyon of wast agaynst the tenaunt for ṫme of lyfe, and all other aduauntage that he in the remayndre may haue in such case.
¶ Also yf two ioyntenauntes be, whiche letteth lande to another for terme of lyfe yeldynge to them and to theyr heyres a certayne rent by yere. In this case yf one of the.ii.ioyntenauntes in the reuercion release to the other ioyntenaunt in the same reuercion, this release is good, and he to whōe the release is made shal haue onely the rent of the tenaūt for terme of lyfe, & shal haue a wryt of Wast agaynste them though he neuer atturned by force of suche release, & the cause is for the pryuyte that ones was betwene the tenaunt for terme of lyfe and them in the reuercyon. In the same maner, & for the same cause it is where a man letteth lande to another for terme of his lyfe the remayndre to another for terme of his lyfe, reseruynge the reuercyon to ẏ lessour, in this case yf he in the reuercion release to him in the remayndre.&c. And to his heyres all his ryght.&c. Than he in the remayndre hath a fe.&c. And shal haue a wryt of

Wast agaynst the tenaunt for tme of lyfe without any attournement of him. &c.

Also yf a lease be made for terme of lyfe the remaynder vnto another in the tayle the remaynder ouer to the ryght heyres of the tenaunt for terme of lyfe, in thys case yf ỳ tenaunt for terme of lyfe graunt his remaynder in fee to another by hys dede, yᵗ remaynder by and by passeth by his dede without any other attournemẽt For yf any ought to atturne, in this case it shulde be the tenaunt for terme of lyfe And it were in dayne that he attourne vpon his owne graunt. &c.

¶ Also yf there be lorde and tenaunt, and the tenaunt holdeth of the lorde by certayne rent, and by knyghtes serupces yf the lorde graunt the serupces of ỳ tenaũt by fyne, the serupces be by and by in the grauntie by force of the fyne, but yet the lorde may nat dystrayne for any parcell of his serupces without attournement But yf the tenaunt dye his heyre beynge within age the lorde shal haue the warde of the body of the heyre & of the lãde. &c. Howe beit that he neuer attourned, for this that the seygnory was in the graũt mayntenaunt by force of the fyne. And also in some case yf the tenaunt dy without heyre, the lorde shal haue the tenaũcye by way of eschet. In the same maner

it

it is ꝑt a man graunt ꝑ reuercyon to hys tenaunt for terme of lyfe to another by fyne, the reuercyon passeth none to the graũte, by force of the fyne, but ꝑ graũte shal neuer haue accyon of Waſt without attournement. ꝛc. But yet ꝑt the tenaunt for terme of lyfe alyene in fe, ꝑ graunte may entre. ꝛc. For this that the reuercyõ was in him by force of the fyne, & such a lyenacyon was to hys dysinheryteunce. But in this case where ꝑ lorde graũteth the serupces of hys tenaunt by fyne ꝑt ꝑ tenaunt dye, hys heyres beynge of full age the graunte by the fine shal nat haue the releſe, nor shal neuer dystrayne for ꝑ releſe, except there had ben an attournement of the tenaunt that dyed. ꝛc. For of suche thynges that lyeth in dystres bpon the whiche a wryt of Replegiare is sued ꝛc. A man ought to auowe the takynge good and ryght wyſe. ꝛc. There ought to be attournement of the tenaunt. Howbe it that the graunt of such serupces be by fyne. But to haue warde of landes and tenementes so holden durynge the none age of ꝑ heyre or of them to haue by way of eſchete there nedeth nat any dystres. ꝛc. But an entre in the lande by force of ryght of the seygnoury that the graunte hath by force of the fyne. ꝛc.

Also in auncyent boroughes or cytyes

where tenementes within the same bo-
roughes or cytyes, be deuysable by testa-
ment by the custome, and the vse. &c. yf
in suche boroughe or cytye a mā be sea-
sed of Kent seruyce or of Kent charge, &
he deuyseth suche rent or seruyce to ano
ther by his testamēt, & dyeth &c. In thys
case he to whom the deuyse is made may
dystrayne for the rent or the seruyces be
hynde, howebeit that the tenaunt neuer
attourned. In ȳ same maner it is where
a man letteth suche tenemētes deuysable
to another for terme of lyfe or for terme
of yeres, and deuyseth the reuercyon by
his testament to another in fee or in fee
tayle & dyeth, and anone after that the te
naunt maketh wast, he to whome the de-
uyse was made shal haue a wryt of Wast
howe beit that the tenaunt neuer attour
ned, & the cause is for thys that the wyll
of the deuysour made by ȳ testamēt shal-
be parformed after the entent of the de-
uysour, & so the effect of this lyeth vpon
the attournynge of the tenaunt. &c. Thā
parcase ȳ tenaunt wolde neuer attourne
then the wyll of the deuysour shulde ne-
uer be parfourmed, and therfore the de-
uyse shal dystrayne or haue an accyon of
Wast. &c. without attournement, for yf a
man deuyse suche tenementes to another
by his testament (habendō sibi impetum)

and

and dyeth & the deuyse entreth, he hath a Fee symple (causa qua supra) and yet yf a dede of feoffement were made to hym by the deuysour of the same tenement (habend̄ et tenend̄ sibi imperpetuum (yf lyuere and seasyn were neuer there vpon made, he shal haue none estate but for tme of lyfe. &c.

¶ Also yf a mā seased of a Manour whiche is parcell in demeane & parcell in seruyces and therof be dysseased, but the tenaunt withholden of the Manour neuer attourne to the dysseasour in thys case, howebeit that the dysseasour dye. &c. and hys heyres is in by discent, yet maye the dysseasy dystrane for the rent behynde & haue the seruyce, but yf ẏ tenaūtes come to the dysseasour & say, we become your tenauntes. &c. or otherwyse made be attournement to hym. &c. And after the dysseasour dyeth seased. &c. Than the dysseasy may nat distrayne for the rent, for this that all the maner discendeth to ẏ heyre of the dysseasour. But yf one holde of me by rent seruyces whiche whiche is a seruyce in grosse & another that no ryght hath, claymeth the same rent & receyueth and taketh the same rent of my tenaunt by cobaccion of distres or by other forme and so dysseaseth me by takynge of suche rent, howbeit that suche a dysseasour dye

so seased by such takynge of the rent yet after his death I may well distrayne for the same rent beynge behynde before ye death of the dysseasour, & after his death and the cause is for this, that such is nat my dysseasour but by eleccion at my wyll for howebeit that he toke the rent of the tenaunt I may at al tymes dystrayne my tenaunt for the rent behynde. &c. so it is to me but as I wyll suffre the tenaunt to be by so much tyme behynde of payment to me of the same rent, for the payment of my tenaunt to another to whome he ne ought to paye is no dysseasyn to me nor shall nat put me out of my rent without my wyll and eleccyon, for howebeit that I may haue assyse agaynst suche a taker. &c. Yet thys is at my eleccyon yf I wyll take him as my dysseasour or nat, so that suche discentes of rentes in grosse ne put terth nat out their lordes fro their distres but that at eche tyme they may well dystrayne for the rent behynde, and in this case yf after the dyssease of hym that so wrongefully take the rent, I graunt by my dede the serupces to another and the tenaũt attourneth, this is good ynough and the serupce by suche graunte and attournement incontynent be in ỹ graũtee &c. But otherwyse it is where the rent is parcel of the maner and the dysseasour dyeth

dyeth ſeaſed of the hole maner, as in the caſe before ſayd.

¶ Dyſcontynuaunce. Cap. xi.

DIſcontynuaunce is an auncyent wo:de in the lawe & hathe dyuers ſygnyfycacyons. &c. but as to one entent it hath ſuche a ſygnyfycacyon, p^t is to ſay where a man hath alyened to another certayne landes o: tenementes & dyeth and another hath ryght to haue p^e ſame landes o: tenemẽtes, but he ne may entre in them bycauſe of ſuche alyenaciõ &c As yf an abbot ſeaſed of certayne landes and tenementes in fee, & he alyeneth the ſame landes and tenementes to another in Fee tayle o: for terme of lyfe, and the abbot dyeth, hys ſucceſſour may nat entre in the ſame lande o: tenementes, howbeit that he hath ryght to haue thẽ as in the ryght of his houſe, but he is put to his accyon to recouer the ſame landes o: tenemẽtes which is called a wryt De ingreſſu ſine aſſenſu capituli.

¶ Alſo yf a man ſeaſed of landes as in p^e ryght of his wyfe. &c. And therof enfeofeth another. &c. and dyeth, the wyfe ne may nat entre, but ſhe is put vnto her accyon the which is called Cui in vita.

¶ Alſo yf tenaunt in the tayle of certayn lande, & therof enfeoffe another. &c. And hath yſſue & dyeth. &c. hys yſſue may nat

entre in the lande, howbeit that he hath ryght and tytle to that, but that he is put to his accyon of Formedon in discendre.

¶ Also yf there be tenaunt in the tayle & the reuercion to the donour and to his heyres, yf the tenaunt make a feoffement &c. and dyeth without yssue, he in the reuercyon may nat entre, but is put to hys accyon of Formedon in the reuerture: & in the same maner it is where the tenaũt in the tayle of certayne lande where the remaynder is to another in the tayle or to another in fee yf the tenaunt in tayle alyeneth in fee or in Fee tayle. &c And after dyeth wtout yssue, they in the remaynder may nat entr, but be put to theyr wryt of Formedon in the remayndre. &c. And for this that by force of suche feoffement and suche alyenacyons in the cases afore sayd, and in lyke cases they whiche haue tytle and ryght after the death of suche a feoffour or alyenour may nat entre, but be put to theyr accyons, bt supra. Therfore suche feoffemẽtes, and alyenacyons be called dyscontynuaunces.

¶ Also yf tenauntes in the tayle be dyssesed and he releaseth by hys dede to the disseasour and to his heyres al the ryght that he hath in the same lande this is no dyscontynuaunce for this that nothynge of ryght passeth to the disseasour but for

terme

terme of lyfe of the tenaunt in the tayle that made their lease.&c. But by the feoffement of tenaunt in the tayle a Fee symple passeth by the same feoffemēt byforce of lyuery of seasyn.&c.but byforce of a release passeth by the same feoffement byforce of lyuery of seasyn.&c. but byforce of a release passeth but the ryght that he may lawful and ryghtfully release without hurte or damage to other personnes which therto haue ryght aft his decease &c.And so it is a great dyuersyte betwen a feoffement of the tenaunt in tayle and a release of the tenaunt in the tayle But it is sayd that yf tenaunt in the tayle in this case release to the dysseasour & byndeth him and his heyres to warrantyse.&c.and dyeth, & this warranty discēdeth to his yssue,thā that is a discontynuaūce bycause of warrantyse,&c. But yf a man haue yssue a sonne by his wyfe,his wyfe dyeth & after he taketh another wyfe & the tenementes be gyuen to him and his seconde wyfe, and to his heyres of theyr ii.bodyes engēdred, and they haue yssue another sonne, and than ẏ seconde wyfe dyeth, and after the tenaunt in the tayle is dysseased & he releaseth to his dysseasour all his ryght.&c.and byndeth him & his heyres vnto warrantyse and dyeth, this is no dyscontynuaunce to the yssue

in the tayle by the seconde wyfe, but he may well entre.&c. for this that the warrantyse discended to his elder brother þt his father had by his fyrst wyfe. In the same maner where tenementes be dyscendable to the yonger sonne after the custome of borough Englysshe ben tayled &c. and the tenaũt in the tayle hath yssue two sonnes & is dyssesed & he releaseth to his dyssesour all his ryght with warrantyse and dyeth, the yonger sonne may entre vpon the dyssesour notwithstandynge the warrantyse, for thys that the warrantyse discendeth to the elder sõne, for alway the warrantyse discendeth.&c. to him that is heyre by the comon lawe.

¶ Also yf an abbot be dissesed and he releaseth to the dyssesour with warrantyse, this is no dyscontynuaunce to hys successour, for this that nothyng passeth by this release but the ryght that he hath durynge the tyme that he is abbot, and thys warrantyse is expyred by his pryuacyon or by his death.

¶ Also yf tenaũt in the tayle be seased of certayne lande, & he letteth the same lãde for terme of yeres byfore of which lease the lessee is in possessyon to which possessyon the tenaunt in the tayle by his dede releaseth all his ryght that he hath in þ same lande to the lessee and to his heyres

for

for euer, this is no discontynuaunce, but after the dyscease of the tenaunt in the tayle his issue may well entre, for this ꝑ by such release nothynge passeth but for terme of lyfe of the tenaunt in the tayle. In the same maner yᵗ the tenaunt in the tayle conforme the estate of the lesse for terme of certayn yeres to haue & to holde to him and to his heyres, this is a dyscontynuaunce, for thys yᵗ nothynge passeth by suche cōfyrmacion, but the estate that ꝑ tenaūt in ꝑ tayle had for tme of his lyfe. ¶ Also yᵗ tenaūt in the tayle by his dede graunt to another all hys estate that he hath in the tenementes in tayled to hym to haue and to holde all his estate to the other and to his heyres for euer and delyuereth seasyn accordynge. In this case the tenaunt to whō the alyenacyon was made hath none other estate but for tme of lyfe, and so it may well be proued that the tenaunt in the tayle may nat graunt ne alyen, ne make any ryghtfull estate of the Franke tenement to another parson but for terme of his owne lyfe. &c. For yᵗ I gyue certayne lande in ꝑ tayle to a mā saynge the reuercyon to me, & after the tenaunt in the tayle enfeoffeth another in fe, the feoffe hath no ryght estate in ꝑ tenementes for .ii. causes. One is for that by suche feoffement my reuercyon is dis-

contynued which is a wronge acte & nat a ryghtfull acte. Another cause is yf the tenaunt dye and his heire suerth a writ of Formedon agaynst the feoffe. The writ shal say, and also the declaracion that ye feoffe wrongfully him deforced. &c. Ergo yf he with wronge hym deforced he had no ryght estate.

¶ Also yf lande be let to a man for terme of his lyfe the remaynder to another in the tayle yf he in ye remaynder wyl graūt hys remaynder to another in fee by hys dede, & the tenaunt for terme of lyfe attourneth, this is no dyscontynuaunce of the remaynder.

¶ Also yf a man be tenaūt in the tayle of auouson in grosse or of comon in grosse, yf he by his dede wyll graunt the auouson or the comon to another in fe this is no dyscontynuaunce, for in such case the graūtee hath no estate but for terme of the tenaunt in the tayle that made the graunt. &c. Note well that such thynges as passe by way of graunt made by dede & nat by act of ye countrey. &c. Suche graūt maketh no discontynuaunce in as the case aforesayd & other lyke cases. &c. And how beit that suche thynge be graunted in fe by fyne leuyed in ye kynges court. &c. yet they make no dyscontynuaunce.

¶ Also yf a mā be seased in tayle of lādes

deuysable

deuysable by testament.&c and he deuy-
seth it to another in fee and dyeth, & the
other entreth,this is no discontynuaūce
for this ꝓ no discontynuaunce was made
in the lyfe of the tenaunt in the tayle.&c.
¶ Also yf an abbot haue a reuercion or a
rent Seruyces or Rent charge,and wyll
graunt that reuercyon of rent Seruyce
or Rent charge to another in fee,and the
tenaunt attourneth &c. Thys is no disco-
tynuaunce. In ꝑ same maner it is where
an abbot is seased of auowson or of suche
thynges that passe by way of graūt with
out lyuere of seasyn. &c.
¶ Also yf there be graundfather tenaūt
in the tayle father & sone, and the graūd
father is dysseased by the father, & the fa
ther maketh a feoffement in fee without
warrantyse and dyeth, & after the graūd
father dyeth,the sonne may wel entre vp
on the feoffe, for this that thys was no
dyscontynuaunce in so much that the fa-
ther was nat seased by force of the tayle
at the tyme of the feoffement.&c.but was
seased in fee by the dysseasyn made to the
graundfather.
¶ Also yf a woman inherite haue an hus
bāde within age,which maketh a feoffe-
ment of the tenementes of the wyfe and
dyeth,it hath ben questyoned yf ꝑ wyfe
may entre or nat. And it semeth to some
men

men that the entre of the wyfe after the death of her husbãde shalbe lefull in this case, for whan her husbande made suche a feoffement. &c. He myght wel enter nat withstãdynge suche feoffement durynge the couerture, and he myght nat enter in his owne ryght but in the ryght of hys wyfe. &c. Ergo such ryght that he had to enter in the ryght of his wyfe. &c. That ryght of entre abydeth to the wyfe. &c. after his decease, and it hath ben sayd pt pl. ti. Joyntenauntes beynge within age make feoffement in fee and one of ꝑ chyldren dyeth, and that other survyueth, in so much that both chyldren myght enter Joyntly in theyr lyues, thys ryght of entre groweth all to him that survyueth, & so he may enter into the hole. &c.

¶ Also the heyre of the husbande ꝑ made the feoffement within age may nat enter for this that no ryght discendeth to such an heyre in the case afore sayd for this pt the husbande had neuer any thynge but in the ryght of his wyfe. And also whan a chylde maketh a feoffemẽt beynge within age, this shall neuer greue nor hurt hym but that he may well enter. &c. And this shulde be agaynst reason pt such a feoffement made by hym that was nat able to make such a feoffemẽt shal greue or hurt other to Toll, puther of theyr entres. &c.

And

And for these causes it semeth to some yt after the death of suche an husbande so beynge win age at the tyme of the feoffe ment.&c. that his wyfe may well ent̄.&c.
¶ Also yf a woman enherytryce taketh an husbande & hath issue a sonne and the husbande dyeth, and she taketh another husbande, and the seconde husbande letteth the lande that he hath in the ryght of his wyfe to another for terme of hys lyfe, and after the wyfe dyeth, & after the tenaunt for terme of lyfe surrēdreth hys estate to the seconde husbande.&c. Enquyre yf the sonne of the wyfe may enter or nat in this case vpon the seconde husbande durynge the lyfe of the tenaūt for terme of lyfe.&c. But it is clere lawe in thys cause that after the death of the tenaunt for terme of life, ẏ sōne of the wyfe may well enter, for this that the dyscontynuaunce that was made all onely for terme of lyfe is detmyned.&c. by the deth of the same tenaunt for terme of lyfe.&c.
¶ Also yf the ꝑson or vycar of a churche alyene certayne landes or tenemētes parcel of hys glebe.&c. to another in fee and dyeth or resygneth.&c. Hys successour may well enter, natwithstandynge suche alyenacyon as it is sayd in a Nota, An.2. H.4. Termino Michaeles quod sic incipit nota quod dictam fuit pro lege. In a

wry

wryt of Accompt brought by the mayster of the Colege that yf a parson or a bycar graunt certayne lādes yt is of the ryght of hys churche to another and dyeth or chaungeth that his successour may entre And I trowe that the cause is for this yt the parson or bycare that is seased. &c. in ryght of ye Fee symple dwellynge in no other parson. And for this cause his successour may wel enter, natwithstādynge suche alyenacyon. &c For a bysshop may haue a wryt of Ryght of tenementes of ryght by hys bysshoprycke, for this that the ryght of Fee symple abydeth in hym and in his chapter, & a Deane may haue a wryt of Ryght. &c. for this that ye ryght abydeth in hym and hys chapter, and an abbot may haue a wryt of ryght, for this that the ryght abydeth in him and in his couent, et sic de aliis casibus consimilibus. &c. but a parson or a bycar may nat haue a wryt of Ryght. &c. But ẏ hyghest wryt yt he may haue is a wryt de Juris btrum, the which is a great profe that ẏ ryght of Fee symple is in obayaūce, that is to say all onely in the remembraunce, entendement and consyderacyon of the lawe, for me semeth that suche a thynge in suche a ryght that is sayde in dyuers bokes to be in by obayaunce is as muche to say in Latin. Si talis res vel tale rect

Juris btrum Fe symple in obeyaunce.

que

que bel qnon est in homine ad tūc superstite sed tanto modo est et concessit in cōsideratione et intelligentia legis.&c. et quidem alii dicerunt saltam remaui talē rectū fore in nubibus.&c. But I suppose that they vnderstande by these wordes in nubibus.&c.as I haue sayd before.

¶Also if a parson of a church dye,nowe the franke tenement of the glebe of the parsonage in no man durynge the tyme that the parsonage is voyde,but is in obeyaunce that is to say in consyderacion and intellygence of ꝑ lawe tyll another be made parson of the same church,& immedyaly whan another is ꝑson,ꝑ franke tenement in dede is in him as successour

¶Also some men parauēture wyll argue and say that so much that ꝑ parson with the assent of the patron & ordynary may graunt a Rent charge out of the glebe of of his ꝑsonage in fee,& so charge ꝑ glebe of the parsonage perpetually.Ergo they haue Fee symple or.ii.or one of thē hath Fee symple at the leste.&c. to this it may be answered that it is prynciple in lawe that of euery lande there is a Fee symple in some man, or els the Fee symple is in obeyaunce.&c. And another prynciple is that euery lande of Fee symple.&c. maye be charged with a rent Charge in fee by one way or by another.&c.And whā such

rent is graunted by the dede of the ſon the patron and the ordynary in fee, none ſhal haue no preiudice or loſſe byfore of ſuche graunt. But the graūtour in theyr lyues, and the heyre of the patron & ſucceſſour of the ordynary after their deceſſes & after ſuch charge of the parſon dye, his ſucceſſour may nat come to the ſayde church to be parſon of the ſame churche by the lawe. But by preſentment of the patron and admyſſyon & inſtitucion of ỹ ordynary. &c. And for this cauſe it behoueth that the ſucceſſour holde him content, and agreed with that which hispatron and ordynary lawe fully haue done before. But the cauſe ỹ ſuch rent charge is gone, for this that they which had entres in the ſayd church, that is to ſay the patron after the lawe temporall and the ordynary after the lawe ſpirytuall were aſſented or pryes vnto ſuch a church. &c. And this ſemeth the very cauſe that ſuch glebe may be charged in parpetuyte. &c.

¶ Alſo yf a byſſhop alyene landes which ben parcell of his byſſhoprycke & dyeth, this is a diſcontynuaunce to hys ſucceſſour, for thy that he ne may nat entre but is put to his wryt De ingreſſu ſine aſſen ſu capituli. &c.

¶ Alſo yf a Deane alyen lande parcell of his deanry and dyeth, hys ſucceſſour ne

may nat entre, but he may haue a wrytte Et ingreſſu ſine aſſenſu epiſcopi et capituli.&c. But yf the Deane and ꝑ chapter haue lande to them and to their ſucceſſours in comon.&c. Howe beit that the Deane alyen ſuche lãdes, his ſucceſſours may well enter, for this that the franke tenement at the tyme of the alyenacyon was as well in the chapter as in ꝑ deane But where the deane is ſole ſeaſed as in ryght of his deanry, than ſuche alyenacyon is a diſcontynuaunce to his ſucceſſour as is afore ſayd. Alſo ſome men wyll argue and ſay that yf an abbot & his couent be ſeaſed in theyr demeane as of fee of certayne lande to thẽ and to their ſucceſſours.&c. and the abbot without aſſẽt of his couent alyeneth the ſame lande to another and dyeth, this is a dyſcontynuaunce to his ſucceſſours.&c. And by the ſame they wyl ſay that where a Deane & and a chapter be ſeaſed of certayne lande to thẽ or to their ſucceſſours, yf ꝑ Deane alyene the ſame landes.&c. this ſhall be a dyſcontynuaunce to hys ſucceſſours. So that his ſucceſſour ne may nat enter.&c. To this may be anſwered that there is great dyuerſyte betwene the ſayd two cauſes, for whan an abbot and yᵉ couent be ſeaſed.&c. yet yf they be dyſſeaſed the

abbot shal haue assyse in his owne name without the namynge of his couent. &c. And yf a man wyll sue a Precipe qd̄ redd̄ of the same lādes whan they be in the hā des of the abbot and hys couent it behoueth that suche an abbot onely without namynge of the couent. &c. For this that al they be dead parsons in the lawe saue onely the abbot that is soueraygne. &c. & this is cause of the soueraygne. &c. for els he shulde be as one of the other monkes of the couent. &c. But the Deane and the chapter be no dead ꝑsons in the lawe. &c. For eche of them may haue an accyon by him selfe in dyuers cases and of such lā des or tenementes whiche the deane and chapter haue in comon. &c. yf they be disseased, than the Deane and the chappyter shal haue assyse and nat the Deane alone and yf another wyll haue an accyon real of suche landes or tenementes agaynst ẏ deane. &c. it behoueth him to sue agaynst the Deane and chapter, and nat agaynst the deane alone. &c. And so appereth gret dyuersyte betwene these two cases. &c.

¶ Also yf the mayster of an hospytal discontynue certayne lande of his hospytal his successours ne maye nat entre but he is put to his wryt De ingressu sine assensu confirm̄ et sororū suorū, and all suche wryttes do playnly appere in ẏ regyster.

Remytter

REmytter is an auncyent terme in the lawe, & it is where a man hath ii. tytles to landes or tenementes that is to say one of an elder tytle and another of the latter tytle, and he commethe to the lande by the later tytle, yet the lawe adiudgeth hym to be in byforce of the elder tytle, for thys that the elder tytle is the more sure tytle and the more worthye tytle, and than whan a man is iudged in by force of the more elder tytle, thys is vnto hym sayde a Remytter, for this that the lawe shall admyt to be in the lande by the elder tytle, as yf ye tenaunt in the tayle dyscontynue ye tayle and after he dysseaseth his dyscontynue, and so dyeth seased wherby the tenementes discende to his yssue, as to hys cosyn inherytable byforce of the tayle, in this case this is to him to whome the tenemẽtes discende whiche hath ryght by force of the tayle a remytter in the tayle taken for that, that the lawe shall put & adiuge him to be in by force of the tayle whiche is his elder tytle, for yf he shall be in by force of dyscent, than ye dyscõtynue may haue a wryt of Entre vpon the dysseasyn in the Per, agaynst him and recouer the tenementes, and his damages, but in so much that he is in byforce of the tayle, ye tytle and the intresse of the dyscontynue

is all vtterly adnulled and defeted. ꝛc.
¶ Also yf tenaunt in the tayle infeoffe in
fee his sonne or his cosyn inheritable by
force of the tayle, the which sonne or co-
syn at the tyme of feoffement is within
age, & after the tenaũt in the tayle dyeth
and he to whõ the feoffement was made
in his heyre by force of ỹ tytle in ỹ tayle,
this is a remytter to the heyre in ỹ tayle
to whõ the feoffement is made. For how
beit that during the lyfe of the tenaunt
in the tayle that made ỹ feoffement such
heyre shalbe adiudged by force of ỹ feoffe
ment, yet after the death of the tenaũt in
the tayle the heyre shalbe adiudged in by
force of the tayle ꝛc. and nat by force of ỹ
feoffement, & though that suche an heyre
was of full age at the tyme of the death
of the tenaunt in the tayle that made the
feoffement, this maketh no matter yf the
heyre were within age at the tyme of the
feoffement made to him, and yf suche an
heyre beynge within age at the tyme of
the feoffement cometh to ful age lyuyng
the tenaũt that made the feoffement and
so beynge of full age he chargeth by hys
dede the same lande with a comon of pa-
sture or with a rent charge, and after yᵉ
tenaunt in the tayle dyeth. Nowe it se-
meth that the lãde is discharged of ano-
ther estate in the lande than he was at ỹ
tyme

tyme of the charge made, in so much that he is in his remptter byfore of the tayle and so the estate that he had at the tyme of the charge is vtterly defeted. &c.

¶Also a principall cause is why suche an heyre in the cases aforesayd, & other cases semblable shalbe sayde in his rempti, is for this that there is no parti agaynst whō that he may sue his writ of Formedon, for agaynst him selfe he may not sue and he may not sue agaynst none other, for none other is tenaunt in franke tenement, and for that cause the lawe adiudgeth him in his remptter, that is to saye in such plyte as he had lawfully recouered the same lande agaynst another.

¶Also yf lande be tayled to a man & hys wyfe, and to the heyre of theyr.ii. bodies engendred, ꝑ which haue yssue a daught and the wyfe dyeth, and the husbande taketh another and hath yssue another daughter and dyscōtynueth the tayle & after he dyssealeth the dyscontynue, & so dyeth seased, nowe the lande discendeth to the two daughters. In this case as to ꝑ elder daughter that is inheryptable this is a remptter but of the halfe, & as to the other halfe she is put to her accyon of Formedon agaynst her sister, for in this case.ii. systers be not tenaūtes in percenary, but be tenauntes in comon, for this that they

be in by dyuers tytles, for the one fyster is in her remptter byfore of the tayle as to that, that vnto her belongeth. And the other fyster is in as to that, pt belongeth to her in Fee symple by the discent of her father. In the same maner it is pf the tenaunt in ꝑ tayle enfeoffe his heyre apparant in the tayle beynge the heyre within age & another ioyntenaunt in fee, and the tenaunt in the tayle dyeth. Nowe pt heyre in the tayle is in hys remptter as to the halfe and as to that other halfe he is put to his wryt of Formedon. &c.

¶ Also pf tenaunt in ꝑ tayle enfeoffe his heyre apparant, the heyre beynge of full age at the tyme of the feoffement, & after the tenaunt in the tayle dyeth, this is no remptter to the heyre, for this pt it was his owne folp that he beynge of full age wolde take such feoffement. &c. But such folp may nat be adiudged in the heyre beynge within age at the tyme of the feoffement. &c.

¶ Also pf tenaunt in the tayle enfeoffe a woman in fee and dyeth, & his issue within age taketh the womā to wyfe, this is a remptter to the chylde, & the wyfe than hath nothynge, for this that the husbāde and ꝑ wyfe ben but one parson in ꝑ lawe And in that case the husbāde may nat sue a wryt of Formedon, but pf that he wyll

sue

ſue agaynſt him ſelfe the which ſhalbe in conuenyent, and for that the lawe iugeth the heyre in his remytter, for this ꝑ no foly may be areted to him beyng within age at the tyme of the ſpouſals. ꝛc. And yf the heyre be in hys remytter by force of the tayle, it followeth by reaſon that ꝑ wyfe hath nothynge. ꝛc. For in ſo muche that the huſbande, & the wyfe be but one perſon, the lande maye nat be ſeuered by halfes, and for ſuche cauſe the huſbande is in his remytter of the hole. But other wyſe it is yf ſuche an heyre be of full age at the tyme of the ſpouſals that than the heyre hath nothynge but in the ryght of his wyfe.

¶ Alſo yf a woma ſeaſed of certayne lãde in fe taketh an huſbãde the whiche alyeneth the ſame lande to another in fe, and the alyene letteth the ſame lãde to ꝑ huſbande, & the wyfe for terme of theyr two lyues, ſaynge the reuercyon to the leſſour and to ꝑ heyres, in this caſe ꝑ wyfe is in his remytter, & ſhe is ſeaſed in dede in her demeane as in fe as ſhe was before for this that the takynge of eſtate ſhalbe adiudged in the lawe, the dede of the huſbande, and nat the dede of the wyfe, ſo ꝑ no foly may be iuged in the wyfe that is couert in ſuche caſe. And in this caſe the leſſour hath nothynge in the reuercyon

Remytter by reaſon of the leaſe en feoffed.

for this that the wyfe is seased in fe. But in this case yf the lessour wyll sue an accyon of Wast agaynst the husbande and his wyfe, for this that the husbande hath made wast, the husbande may nat barre the lessour for to shewe this that the takynge of estate made vnto him and to his wyfe made a remitter to his wyfe, for thy that the husbande stopped to say thys agaynst his feoffemēt, and owne reprisell of estate for terme of lyfe to him and hys wyfe. and yet the lessour hath no reuercyon, for this that the Fee symple is in ỹ wyfe. So a man may se a matter in thys case that a mā shalbe stopped by a matter in dede thoughe no wrytynge by dede indented or otherwyse be therof made. But yf in an accyon of wast ỹ husbande make defaut at the graunde dystres, & the wyfe prayeth to be receyued, and is receyued, she shal well shewe all the matter & how she is in her remytter, and shal barre the lessour of his accyon. For in euery case that ỹ wyfe is receyued for defaut of her husbāde she shal plede and haue the same aduauntage in pleadynge as she were a woman sole. And howbeit that the alyen made the lease to the husbande and hys wyfe by dede indented, yet this is a remytter to the wyfe, & though the alyene yelded the same lāde to the husbande and

Stopped by a matter in dede.

his

his wyfe by fine for terme of their lyues yet this is a remytt to ꝑ wyfe, for this ꝑ the wyfe couerte ꝑt taketh estate by fyne shal nat be exampned by ꝑ Justyces. And here note wel that whā any thynge shall passe fro the wyfe that is couerte of husbande by force of a fyne, the husbāde and his cognysaunce of ryght to another. &c. or make a graunt and yelde to another, or release by a fyne to another. Et sic de similibus, where the ryght of the wyfe passeth fro the wyfe by force of the same, the wyfe in all suche cases shalbe exampned before that the fyne be accepted. And suche fynes cōclude suche wyues couert for euer. But where nothynge is moued in the fyne but al onely that the husbānde and the wyf take estate by force of ꝑ same fyne, this shal conclude the wyfe, for this that in suche case she shall neuer be exampned.

¶ Also yf tenaūt in the tayle dyscōtynue the tayle and hath a daughter & dyeth, & the daughter beyng of full age taketh an husbande, and the dyscontynuaunce maketh a lease of this to the husbande & his wyfe for terme of their lyues, this is a remytter in dede of the wyfe, and the wyfe is in byforce of ꝑ tayle, causa qua supra.

¶ Also yf lāde be gyuen to the husbande and his wyfe to haue and to holde to the

and

and to the heyres of theyr.ii. bodyes begotten,& after the husbonnde alyeneth ꝑ lande in fee and taketh agayne an estate to him and to his wyfe for terme of their two lyues. In thys case this is a remptter in dede to ꝑ husbande & the wyfe maugre the husbande,it may nat be a remptter to the wyfe except it be a remptter to ꝑ husbande, for thys that the husbande & hys wyfe be but one parson in ꝑ lawe though that the husbande is stopped to clayme, this to be a remptter in him agayn̄ his alyenacyon,and his owne reprysell as it is afore sayd.

¶Also ꝑ lande be gyuen to woman in ꝑ taple, ꝑ remaynder to another in ꝑ taple the remaynder to the thyrde in the taple the remaynder to the fourth in fee,and ꝑ wyfe taketh an husbande,& the husbande dyscontynueth the lande of the wyfe, by this, dyscōtynuaunce all the remaynders be dyscōtynued,for ꝑ the wyfe dye with out pfue,they in ꝑ remaynder shall haue no remedy but to sue theyr writ of Formedon in remaynder whan they come to theyr tyme.&c But ꝑ after suche discontynuaunce estate be made to the husbāde and his wyfe for terme of theyr.ii.lyues or for terme of anothers lyfe,or another estate.&c.for thys that this is a remptter to the wyfe,this a remptter to al those in

the

the remayndre.&c. for after this that the wyfe that is in her remytter dyeth with out yssue, they in the remayndre may ent &c. without any accion or sute.&c. In the same maner it is of them whiche haue ye reuercyon after suche tayle.&c.

¶ Also yf a man let a house to a woman for terme of her lyfe fauynge the reuercyon to the lessour, and after one sueth a faynt and falfe accyon agaynst ẏ woman and recouereth the house agaynst her by defaute, so that the woman may haue agaynst him a wryt Quod ei deforcia, after the statute of Westm̄.2.Cap.4. Nowe is the reuercyon of the lessour dyscontynued so that he ne may haue no accion of Wast. But in this case yf the womā take an husbande, and he that recouereth, letteth the house to the husbāde & his wyfe for terme of theyr two lyues, the wyfe is in her remytter byforce of the fyrst lease. And yf the husbande and the wyfe make wast, the fyrst lessour shall haue agaynst him a wryt of Wast, for thys that in so much the wyfe is in her remytter, he is remitted to his reuercion. But it semeth in this case if he that here cometh by the false accyon wyll brynge another wryt of Wast agaynst the husbāde & his wyfe the husbande hath no remedye agaynst hym but to make defaut at the great dy-

stres

stres.&c. And to cause the wyfe to be de-
ceyued and to plede the matter agaynst ꝑ
the seconde lessour, and to swere that the
accyon by which he recouered was false
and farned in the lawe, and so the wyfe
may barre.&c.

¶ Also yf the husbande dyscontynue the
lande of his wyfe, and after taketh estate
to him & to hys wyfe, and to the thyrde
mā for terme of theyr lyues or in fee this
is a remytter to the woman, but as to ꝑ
moyte. And as for the other moyte it be-
houeth her after the death of her husbād
to sue a Cui in vita.&c.

¶ Also yf the husbande dyscōtynue the
lande of his wyfe & go ouer the see, and ꝑ
dyscontynue let the same lāde to the wo-
man for terme of lyfe, and delyuer to her
seasyn, and after the husbande cometh &
agreeth to that and lyuereth her seasyn,
this is a remytter to the woman, and yet
yf the woman had ben sole at the tyme of
the lease made to her, thi shulde be to her
a remytter, but in so muche as she was co
uert baron at the tyme of the lesse and ꝑ
lyuere of seasin made to her though ꝑ she
only take the lyuere of seasyn, this was
a remytter to her bycause a woman co-
uert shalbe adiudged as an infant with-
in age in suche case.&c Enquyre in thys
case yf the husbande whan he cometh a-

☞ En quyre.

gayns

gayne wyll dysagree to the lease and lyuere of sealyn made to his wyfe in his absence yf this shal put the woman fro her rempter.

¶Also yf the husbande dyscontynue the tenementes of his wyfe, and the dyscontynue is dyssealed, & after the dyssealour letteth the sayd tenementes to ꝑ husbãde and his wyfe for terme of lyfe, this a rempter to ꝑ wyfe, but yf the husbãde and the wyfe were of couin or consent that ꝑ dyssealyn shulde be made, than it is no rempter to ꝑ wyfe because she is a dissasouresse. But yf the husbande were of coupn and consent to the dyssealyn, & nat ꝑ wyfe than suche lease made to the wyfe is a rempter because that no defaut was in the wyfe.

¶Also yf suche a dyscontynue had made estate of freholde to the husbande and ꝑ wyfe made by endenture bpon cõdicyon S. reserupnge to the discontynuee a certayne rent, and for defaute of payment a reentre, and bycause that the rent is behynde the dyscontynue entreth of thys entre the woman shal haue Assyse of Nouel dyssealyn after the death of her husbande agaynst the discontynuee, bycause that the condycyon was holly adnulled in so much as the woman was in her rempter, yet the husbande with his wyfe

coulde

coulde nat haue allyse bycause the husbande is stopped.

¶ Also yf the husbande dyscontynue the tenemētes of his wyfe, and taketh estate agayne for terme of hys lyfe the remaynder after his dissease to his wyfe for tme of her lyfe, in this case, this is no remytter to the wyfe durynge the lyfe of her husbande bycause that durynge the lyfe of the husbande, the wyfe hath nothynge in the freholde, but yf in this case ꝑ wyfe ouerlyue the husbāde, this is a remytter to the wyfe bycause that a freholde in ꝑ lawe is fallen vpon her maugre her wyl and in so much ꝑ she can haue no accyon agaynst none other parson, & agaynst her selfe she can haue no accyon, therfore she is in her remytt. For in this case though that the woman enter nat in the tenemētes, yet a straunger yt hath cause to haue accyon may sue his accyon agaynst ꝑ woman of the same tenementes bycause she is tenaunt in lawe though she be nat tenaunt in dede, for tenaunt of franke tenement in dede is he, that yf he be disseased of his franke tenement may haue allyse, but tenaūt in lawe before his entre shall haue allyse, & yf a man seased in fee of certayne lande hath yssue a sonne which taketh a wyfe, & the father dyeth seased, & after ꝑ sōne dyeth before any entre made by

Note of whiche franke tenemēt allyse shalbe maynteyned.

by him into the lande, ꝑ wyfe of the sone shalbe endowed in the lande, & yet he had no franke tenement in dede, but he had a fee and a franke tenement in lawe, and so note well ꝑ a Precipe quod reddat may aswell be mayntayned agaynst him that hath frāke tenement in lawe as agaynste him that hath Franke tenement in dede. ¶ Also ꝑ a tenaunt in ꝑ tayle haue yssue two sonnes of full age, and he letteth the tayled lande to the elder sonne for terme of his lyfe, the remaynder to the ponger sonne for terme of his lyfe, and after the tenaunt in the tayle dyeth. In this case the elder sonne is nat in his remytter because he toke estate of his father, but yf ꝑ elder sone dye without yssue of his body than this is a remytter to ꝑ ponger brother because he is heyre in the tayle, and a franke tenement in lawe is fallen vpon him by force of the remaynder, and there is none agaynst whome he may sue his accyon. &c. In the same maner it is where a mā is dysseased & the dysseasour dyeth therof seased, and the tenementes discende to his heyre & the heyre of the dysseasour maketh a lease to a man of the sayd tenementes for terme of lyfe the remaynder to the dysseasour for terme of lyfe or in tayle or in fee and the tenaunt for terme of lyfe dyeth. Nowe this is a

remitter to the disseasy. &c. Cā qua supra.
Also yf tenaunt in the tayle enfeoffe his sonne and another of the tayled lāde in fee, and lyuere of seasyn is made to ye other accordynge to the dede, the sonne nat knowynge therof nor agreynge to ye feoffement, and after he that toke the lyuere of seasyn dyeth and the sonne occupyeth nat the lande nor taketh any pfyte of the lande durynge ye lyfe of his father and after the father dyeth, nowe this is a remytter to the sonne bycause the free holde is fallen vppon hym by the suruyuour and no defaut was in hym because he neuer agreed, &c. In the lyfe of his father and there is none agaynst whom he may pursue his wrytte of Formedon. &c. For yf a mā be dysseased of certayne lāde and ye dysseasour maketh a dede of feoffement wherof he enfeoffeth B. C. and D. And the lyuere of seasyn is made to B. & C. but D. was nat at the lyuere of seasyn nor neuer agreed to ye feoffement nor neuer wolde take the pfytes. &c. And after B. & C. dye and D. querlyueth them, and the dysseasy bryngeth his wryt, sur dysseasyn in the Per agaynst the same shall sue all the matter, and howe that he neuer agreed to the feoffement, & so he shal dyscharge hym selfe of damages so that the demaundant shal recouer no damage
agaynst

agaynst him thoughe that he be tenaunt of Franke tenement of the lāde. And yet the statute of Glocester wyll that the disseasy shal recouer damages on a wryt of Entre grounded vpon the Nouel disseasyn agaynst him that is founde tenaunt. And this is a profe in the other case that in so much as the yssue in ẏ tayle cometh to the Frāke tenement & nat by his dede nor by his agrement that after the death of his father this is a remitter to him, in so much that he can sue an accyon of Formedon agaynst none other parson. &c.

¶ Also yf an abbot alyene the lāde of his house to another in fe, and the alyene by his dede chargeth the lande with a Rent charge in fee and after the alyene enfeoffeth the abbot with lycence to haue and to holde to the abbot & to his successours for euer, and after the abbot dyeth, & another is chosen and made abbot. In this case the abbot that is successour and his couent be in theyr remytter, & shal holde the lande discharged bicause that ẏ same abbot can nat haue any accion or wryt of Entre Sine assensu capituli of the same lādes agaynst none other parson. In the same maner it is where a bysshoppe or a Deane or other suche persons alyen. &c. without assent. &c. And after the bysshop taketh estate agayne of the sayd lande by

lycence to hym, and to his successours, & after the bysshop dyeth his successour is in his remytter as in ryght of his church and shall defete the charge. &c. Causa qua supra.

¶ Also yf a mā sue a false accyon agaynst tenaunt in the tayle, as yf a man wyll sue agaynst him in wryt of Entre in ꝑ post, supposynge by his wryt that the tenaunt in the tayle had nat his entre but by A. of B. that dysseased the graunde father of ꝑ demaundant, and that is false, and he recouereth agaynst the tenaunt in the tayle by defaut, and sueth execucyon, and after the tenaunt in the tayle dyeth, hys sylue may haue a wryt of Formedon agaynst him that recouered, & yf he wyll plede ꝑ recouere agaynst the tenaūt in the tayle, the sylue may say that the sayde A. of B. dysseased nat the graunde father of hym that recouered in the maner as his wryt supposeth, and so he shal falsefy his recouere. Also suppose that it was true that ꝑ sayd A. of B. dysseased the graundfather of the demaundant that recouered, & that after the dysseasyn ꝑ demaundant or his father or his graundfather by a dede had released to the tenaunt in the tayle all ꝑ ryght that he had in the lāde. &c. And thē notwithstandynge he sueth his wryt of Entre in the post agaynst the tenaunt in

the

the tayle, in the maner as is a forsayd, & the tenaunt in the tayle pleadeth to hym, that the sayde A. of B. dyssesed nat hys graundfather as his wryt supposeth, and vpon this they be at yssue, and the yssue is founde for the demaundaunt, wherby he hath iudgement to recouer, and sueth execucyon, and after the tenaunt in the tayle dyeth, his yssue may haue a wryt of Formedon agaynst hym that recouered. And yf he wyll plede the recouere by accyon tryed agaynst his father tenaunt in the tayle, than he may shewe and plede ỳ release made to his father, & so the accion that was sued was fayne in the lawe. &c. And it semeth ỳ fayne accyon is as much to say in englysshe as fayned accion, that is to say, such accyon that though ỳ wordes of his wryt be true, yet for certayne causes he hath no cause nor tytle by the law to recouer by same accion. And false accyons is where the wordes of ỳ wryt be false, and in the two cases beforesayde yf the cases were suche that after suche a recouere, and execucyon therof made the tenaunt in the tayle had dyssesed him ỳt recouered and therof died seased wherby the lande also dyscended vnto hys yssue this is a rempter to the yssue & the yssue is in byforce of the tayle, & for that cause I haue put these two cases before sayd to

Faure rade re couer ỳ fayne plede.

Fayne accyon.

False accyon.

enioymed the my ſonne that yſſue in the tayle by force of a diſcent made to him after a recouere, & execucyon therof made agaynſt hys auncetter may be as well in hys remytter as he ſhulde be by diſcent made to him after a diſcōtynuaūce made by his auncetter of the tayled landes by feoffement in the countrey or otherwyſe

¶ Alſo in the ſame caſe aforeſayde yf the caſe were ſuche that after that ꝑ demaūdant had iugement to recouer agaynſt ꝑ tenaunt in ꝑ tayle, and the ſame tenaunt in ꝑ tayle dyed before any execucyon had agaynſt him wherby the tenemētes diſcende to his yſſue, and he that recouered ſuche a Scire facias to haue execucyon of the iugement agaynſt the yſſue in the tayle the yſſue ſhall pleade the matter as before is ſayde and ſo ſhal proue that the recouere was falſe or fayne in the lawe, and ſo ſhall barre him to haue execucyon of the iudgement. &c.

¶ Alſo yf tenaūt in the tayle diſcōtynue the tayle and dye, and thꝰ yſſue bryngeth a writ of Formedon agaynſt the diſcontynue beynge tenaunt of the freholde of the lande and the diſcontynue pleadeth that he is nat tenaunt but otherwyſe diſclaymeth fro the tenaunce in ꝑ lande, in this caſe the iudgement ſhalbe that the tenaunt

tenaunt go without day, and after suche iudgement the yssue in the tayle that is demaundant may well entre in the lande notwithstandynge the dyscontynuaunce. And by such entre he shalbe adiudged in his remytter, & the cause is bycause that yf any man sue a ꝑcipe q̄ redd̄ agaynst any tenaunt of freholde, in which accion the demaundant shall nat recouer damages, and the tenaunt pleadeth nat none tenure but otherwyse dysclaymeth in the tenaunce, the demaūdant may nat auerre his wryt that he is tenauut as the wryt suppoleth. And for that cause the demaūdaunt after that, that iudgement is gyue that the tenaūt shal go without day may entre into the tenementes demaunded, ꝑ which shalbe as great aduantage to him in the lawe as yf he had iudgement to recouer agaynst the tenaunt. And by suche entre he is in his remytter byforce of the tayle, but by wryt the demaundant recouereth damages agaynst the tenaunt, the demaūdant may auerre that he is tenaūt as the wryt suppoleth, & that for the aduauntage of the demaundant for to recouer his dammages, or els he shall nat receyue hys damages, the which damages be or were gyuen him by the lawe.

¶ Also yf a man be disseased & the disseasour dye his heyre beynge in by dyscente

nowe

nowe the entre of the dysseasy is taken a way. And yf the disseasy bringe his writ of entre vpon the dysseasyn in the per, agaynst the heyre, and the heyre dysclaymeth in the tenaunce &c. the demaundant may auerre his writ that he is tenaūt as the writ supposeth if he wyll for to recouer his damages. But yet yf he wyll leue the auerment &c. he may lawfully entre into the lande bycause of the disclaymer notwithstāddynge that hys entre before was taken away. And that was adiuged before my mayster syr Robert Dāby late chyef Justice of the comon place and his companyons.

¶ Also where the entre of a man is lawfull thoughe that he take estate to hym whan he is of ful age for terme of lyfe, or in tayle, or in fee, thys is a rempter to him yf suche takynge of estate be nat by dede indented, or by matter of recorde yt shal conclude or stop him. For yf a man be dysseased and therof taketh estate of ye dysseasour without mede or by dede poll this is a good rempter to the dysseasy.

¶ Also yf a man let lāde for terme of lyfe to another which alyeneth to another in fee, & the alyenour maketh estate to the lessour, this is a rempter to the lessoure bycause his entre was lawfull.

☞ Also yf a man be dysseased and the

dysseasour

dysseysour letteth the lande to the dyssea sy by dede Poll or without dede for t̃me of yeres, wherdy ẏ dysseasy entreth, this entre is a remytter to the disseasy. For in suche case where ẏ entre of a man is law full, and a lease is made to him thoughe that he clayme by wordes in the coũtrey that he hath estate byforce of suche lease or sayeth openly yt he claymeth nothyng in the lande, bnt by force of suche lease, yet this is a remytter to hym, for suche clayme in the coũtrey is nothynge to pur pose, but yf he clayme in the court of re= corde that he hath estate but by force of suche lease and nat otherwyse than he is concluded. &c.

¶ Also yf two Joyntenauntes seased of certayne lande in fee the one beynge of full age the other within age be dyssea= sed, & the dysseasour dyeth seased and his yssue entreth, the one of the ioyntenaun= tes beynge than within age, & after that he cometh to full age, ẏ heyre of the dis= seasour letteth the lande to ẏ same ioyn= tenaunce for terme of their lyues, this is a remytter as to the halfe to him yt was within age bycause that he is seased of ẏ moyte that belongeth to him in Fee, by= cause his entre was lawfull. But the o= ther ioyntenaunt hath in the other halfe but estate for terme of his lyfe byforce of

the leafe byeause his entre was taken away.&c.

¶ Warrantye. Cap.xiii.

IT is comonly sayd that there be thre maner of warrantyes, that is to saye, warrantye lyneall, warranty collateral; and warranty that begynneth by dissealyn. And is to wyt that before the statute of Glocester all warrantyes which discended to them which were heyres to them that made ꝑ warranty were barres to the same heyres to demaunde any landes or tenemētes against those warrantyes, except the warrātyes that began by dysseasyn, for suche warranty was neuer barre to the heyre byeause the warranty began by wronge ꝑ is to say by dissealyn

*Warrantye that begynneth by dysseasyn.

¶ Warranty that begynneth by dysseasyn is suche forme. As where there is father and sōne, & the sonne doth purchase lande.&c. and letteth the same lāde to his father for terme of yeres, & the father by his dede therof enfeoffeth another in fee and byndeth him and his heyres to warranty, and yf the father dye wherby the warranty discendeth to his sonne, thys warranty shal nat barre the sōne, for nat withstandynge this warranty the sonne may well entre in the lande or haue an assyse against the alyene yf he wyll, byeause the warrantye began by dysseasyn.

For

For whan the father ꝑ had no estate but for terme of yeres made a feoffement in fee, this was a dysseasyn to hys sonne of Franke tenement that than was in the sonne. In the same maner it is ꝑ ꝑ sonne let vnto the father the lande to holde at wyl, and after the father maketh a feoffement with warranty. &c. And as it is said of the father so may it be sayd of euery other auncester. &c.

¶ In the same maner it is ꝑ tenaunt by Elegit, tenaunt by statute marchaunt, or tenaunt by statute Staple make a feoffement in fee with warranty. &c. this shall nat barre the heyre that ought to haue ꝑ lande bycause that suche warrantyes begynneth by dysseasyn.

¶ Also ꝑ warde yne in Chyualry or warde yne in Socage make a feoffement in fe or in fee taple or for terme of lyfe with warrantye. &c. Suche warrantyes be no barres to the heyres to whome the lande shal dyscende bycause that they begynne by dysseasyn.

¶ Also ꝑ the father and the sonne purchace certayne landes or tenementes to haue & to holde to them ioyntly. &c. And after the father alyeneth the hole to another and byndeth him and his heyres to warranty. &c. and after the father dyeth, this warranty shall nat barre the sone of

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the moyte ꝓ belonged to him of the same tenementes, bicause that as to the moyte that belongeth to the sonne the warrantye began by dysseasyn.

¶ Also ꝑ A. of B. be seased of a mese and of F. B. that hath no ryght entre into ꝑ same mese claymynge to holde the same mese to him & to his heyres, but A. of B. than is cõtynually dwellynge in ꝓ same mese, in thys case ꝓ possessyon of ꝓ frãke tenement shalbe alway adiudged in A. of B. and not in F. of B. bycause ꝑ in suche case where .ii. be in one mese or in other tenementes, & the one claymeth by one tytle and the other by another tytle the lawe shal adiudge him in possessyon that hath ryght to haue the possessyon of the same tenement. But in the case aforesayd ꝑ F. of B. make a feoffement to certayne barretours & extorcyoners in the countrey for to haue mayntenaunce of thẽ of the same mese by dede of feoffement with warrãtye byforce of which the sayd A. of B. dare nat dwel in ꝓ same mese but goth out of the same mese, this warrantye begynneth by dysseasyn, bycause that suche a feoffement was cause that the sayde A. of B. left the possession of the same mese.

Marke. ☞ Also ꝑ a man that hath no ryght to entre in anothers tenementes entre into the sayd tenemẽtes & inclosynent maketh a feoffement

a feoffemēt to other parsons by hys dede with warrāty, and delyuer to thē seasyn, this warranty begynneth by dysseasyn, bycause that the dysseasyn and the feoffe ment were made as it were at one tyme. And yᵗ this is lawe, ye may se it in a plee An.31.E.3. in a wryt of Formedon in the reuercyon.

¶ Warrantye lyneall is where a mā sea sed of certayne lande in fe maketh feoffe ment by his dede to another, and bindeth him and his heyres to warrantie, & hath yssue and dyeth, and the warranty dyscē deth to hēs yssue this is a lyneall warrā tye. And the cause why this is a lyneall warranty dyscendeth from the father to his heyre, but yᵉ cause is bycause that yf no suche dede w̄ warranty had ben made by the father, thā the ryght of ẏ tenemen tes shulde dyscēde to ẏ heyre & the heyre shulde conuey ẏ discent frō the father. &c. For yf there be father & sōne and ẏ sonne purchace tenementes in fe and the father dysseaseth ẏ sōne therof, & alyeneth it to another in fee by hys dede, and by ẏ same dede byndeth hym and his heyre to war rant the same tenementes. &c. And the fa ther dyeth, now is ẏ sōne barred to haue the sayd tenemētes, for he may by no sute nor by any other meane haue ẏsayd tene mētes bycause of ẏ sayd warranty. And that

*Warranty lyneall.

Collateral warrantye.

that is a collateral warranty, and yet the warranty dyscended lyneally from ꝑ father vnto the sonne. But bycause that ꝑ no suche dede with warranty had be made, the sonne in no maner myght conuey the tytle that he hath of the tenementes frō his father to him in so much that his father had no estate nor ryght in the tenementes, therfore suche warrantye is called collateral warranty. In so much that he that made the warranty is collateral to the tytle of the tenementes, and that is as much to say that he to whō warranty dyscended coulde nat conuey the tytle ꝑ he had in the tenementes by him ꝑ made the warrantye, in thys case ꝑ no suche warranty had be made.

¶ Also ꝑ there be graundfather, father and sonne, & the graundfather is dyssesed in whose possessyon the father releaseth by his dede with warranty. &c. And dyeth, and after the graundfather dyeth, now is the sonne barred of the tenemētes by the warranty of his father, & this is called lyneall warranty, bycause that ꝑ no such warranty had be made ꝑ same myght nat haue conueyed the ryght of ꝑ tenementes to him nor shewe howe he is heyre to the graūdfather but by meanes of the father. &c.

¶ Also ꝑ a man haue yssue thre sonnes,

and

and is dyſſeaſed & the elder ſonne releaſeth to the dyſſeaſour by hys dede with warranty, &c. and dyeth without yſſue, & after this the father dyeth, this is lyneal warranty to the ponger ſonne, bycauſe þ though the elder ſonne dye in the lyfe of the father, yet by poſſibilyte it myght be that he myght conuey to him the tytle of the lande by his elder brother yf no ſuch warranty had be made. For it myght be that after the death of the father the elder brother entred into the tenemētes & dye with yſſue, & than the ponger ſonne ſhall cōuey to him þ tytle by his elder brother But in this caſe yf the ponger ſonne releaſe with warranty to the dyſſeaſour & dyeth without yſſue, this is a collateral warranty to the elder ſōne, bycauſe that of ſuche lande as was to the other, thelder brother by no poſſybylyte myght cōuey to him the tytle by meane of the ponger brother.

¶ Alſo yf tenaunt in the tayle haue yſſue thre ſōnes & dyſcontynue the tayle in fe, and the myddle ſon releaſeth by his dede to the dyſcōtynuē & byndeth hym & his heyres to warranty, &c. and after the tenaūt in þ tayle dye, & the myddle dyeth wout yſſue, nowe is the elder ſonne barred to haue any recouere by a writ of formeō bycauſe that the warranty of the myddle

brother

brother is collaterall to him, in so much that he may by no maner conuey to him byforce of the tayle any discent by ye myddle brother, & therfore it is a collaterall warranty. But in this case yf thelder brother dye without issue, nowe the yonger brother may well haue a Formedon to ye discendre and recouer the same lande bycause that ye warrãty of the myddle brother is lyneall to the yonger brother, bycause it may be yt by possybylyte ye myddle brother may be leased byforce of the tayle after the death of his elder brother and than the yonger brother may cõueye his tytle of discent by ye myddle brother.

¶ Also yf tenaũt in the tayle dyscõtynue the tayle & hath yssue, & dye, and ye vncle of ye yssue release to the dyscõtynue with warrãty & dye wout yssue, this is a collateral warrãty to ye yssue in the tayle, bycause that the warranty discẽdeth vpon the yssue which can nat conuey him selfe to the tayle by meane of his vncle.

¶ Also yf tenaũt in ye tayle haue yssue. ii. daughters & dye, and ye elder daughter entreth nat into the hole, & therof maketh a feoffemẽt in fe with warrãty, & after ye elder daughter dyeth wout yssue, in this case the yonger daughter is barred as to the moyte, & as to ye other halfe she is nat barred for as to the moyte that belõgeth

to

to the yonger daughter she is barred, by-
cause ẏ as to the moyte ẏ belõgeth to her
she cãnat cõuey ẏ discent by the meane of
her elder syster. And therfore as to that
moyte, ẏ is a collaterall warrãty, but as
to ẏ other moyte which belõgeth to her
elder syster by ẏ same elder syster ẏ war-
ranty is no barre to the yonger syster by
cause ẏ she may cõceyue her discent as to
that moite ẏ belõgeth to her elder by the
same elder syster. And so as to yt moyte ẏ
belonged to the elder syster the warrãty
as to ẏ is lyneall to the yonger syster. &c.
☞ And note well that as to him that de
maũdeth Fee symple by any of hys aun-
cesters, she shalbe barred by lyneall war-
ranty which discẽdeth vpon him, except
it be restrayned by some statute, but he ẏ
demaũdeth Fee tayle by wryt of Formed
in ẏ discẽdre shal nat be barred by lyneal
warrãty, except he haue ynoughe by dis-
cent in Fee symple by ẏ same aũcester yt
made ẏ warrãty, but a collateral warrã-
ty is bar to him ẏ demaũdeth fe, & also to
him ẏ demaũdeth Fee tayle wout any o-
ther discent of Fee siple except in cases ẏ
be restrayned by ẏ statutes & other cases
for certayn causes as shalbe sayd hereaft.
¶ Also yf lãde be gyuen to a mã & to hys
heyres of his body begotten ẏ which ta-
keth a wyfe & haue yssue a sõne betwene

the, and ꝑ husbãde dyscõtynueth ꝑ tayle in fe, & dyeth, & after ꝑ wyfe releaseth to the discõtynue in fe w warranty & dyeth and ꝑ warrãty discẽdeth to ꝑ sõne. This is a collateral warrãty, but yf tenemẽtes be gyue to ꝑ husbãde and ꝑ wyfe & to the heyres of their.ii. bodyes begotte, which haue yssue a sõne, & the husbãde dyscõtynueth the tayle & dyeth, & after the wyfe releaseth w warranty & dyeth, this warranty is but a lyneal warranty to ꝑ sõne for ꝑ sõne shal nat be barred in thys case to sue his wryt of Fozmedon, excepte he haue ynoughe by discent in fee symple by his mother bycause ꝑ theyr yssue in a wryt of Fozmedõ ought to cõuey to him ꝑ ryght as heyre to his father & to his mother of their.ii. bodyes begottẽ by fozme of the gyft. And so in such case ꝑ warrãty of the father & the warranty of ꝑ mother be but as lyneal warrãtyes to ꝑ heyre. &c And note well that in euery case where a man demaũdeth tenemẽtes in fe tayle by a wryt of Fozmedon, yf any of ꝑ yssue in the tayle ꝑ had possession oz that hath no possessyon make a warrãty. &c. yf he that sueth ꝑ wryt of Fozmedon myght by any possybilyte by matter ꝑ myght be in dede cõuey to him by him that made the warranty by the fozme of the gyft. Thys is a lyneall warranty and nat collaterall.

Also

¶ Also if a man haue yssue.iii.sōnes & he gyueth lāde to ẏ eldest sonne to haue & to holde to him & to the heyres of his body begotten, & for defaut of such yssue ẏ remayndre to the mydle sōne to him, & to ẏ heyres of his body begottē, & for defaut of such yssue the remayndre to ẏ yongest sōne, & to his heyres of his body begottē in this case yf the eldest sōne dyscōtynue the tayle in fe & bynde him & hys heyres to warrāty & dye wout issue, this is a collateral warranty to the myddle sōne & he shalbe barred to demaūde ẏ same lāde by force of the remayndre, bycause that ẏ remayndre is his title, & his eldest brother is collaterall to that tytle which begynneth byforce of the remayndre.

¶ In the same maner it is yf the myddle sōne had ẏ same lāde byforce of ẏ remayndre bycause ẏ his eldest brother made no dyscōtynuaunce but dyed wout yssue of his body, & after ẏ myddle sōne maketh a dyscōtynuaunce with warranty.&c. and dyed wout yssue, this is a collateral warranty to the yongest sonne, & also in this case yf any of ẏ sayd sōnes be dysseased, & the father ẏ made the gyft release to the disseasour al his ryght.&c. with warrāty this a collateral warranty to yᵗ sōne bpō whō the warranty discended. Causa qua supra. And so note well that where a mā

that is collaterall to ꝑ tytle ꝛc. releaseth with warranty ꝑ is a collateral warrãty ¶ Also yf ꝑ father gyue lãde to hys eldest sone to haue & holde to hym & the heyres males of his body begotten ꝑ remaynd̃re to the seconde sõne ꝛc. yf ꝑ eldest brother alyene in fe with warranty ꝛc. and hath yssue female & dyeth wout issue male, thꝭ is nat a collateral warranty to ꝑ seconde sõne, nor shal nat hurt him of his accyon by Formedon in ꝑ remaynd̃re bycause yt the warranty discẽdeth to ꝑ daughter of the eldest sõne, & nat the secõde sone. For euery warranty yt discẽdeth, discẽdeth to him that is heyre vnto hym which made the warranty by the comon lawe ꝛc.

¶ Also yf lãde be giuen to a man & to his heyres males of his body begotten, & for defaut of suche yssue ꝑ remaynd̃re therof to his heyres females of his body begotẽ and after ꝑ donee in the tayle maketh a feoffement in fe wt warranty accordyng, and hath yssue a sõne & a daughter & dye, this warrãty is but a lyneal warranty to the sõne to demaũde by wryt of Formedõ in ꝑ discendre. And it is but lyneal to the daughter to demaũde ꝑ same lãde by wryt of Formedon in ꝑ remaynd̃re, if her brother dye without heyre male, bycause yt she claymeth as heyre female of the body of her father begottẽ. But in this case yf her brother in his lyfe release to the dis-

contynue.&c. with warranty.&c. And aft dye wout yssue, this is a collateral warranty to ye daughter, bycause that she cannat cōuey to her ye ryght that she hath by force of ye remayndre by any meane of discent by her brother, & therfore ye brother is collaterall to the tytle of his syster, & therfore his warranty is collerall.&c.

¶ Also I haue herde say ye in the tyme of kynge Rycharde the seconde there was a Justyce of the comon place dwellyng in Kent called Rykhyll yt had yssue dyuers sōnes. And his entēt was ye his eldest son shulde haue certayne landes to him & the heyres of his body begotten, & for defaut of issue, the remayndre to his seconde son &c. And so to the thyrde sōne.&c. And bycause that he wolde yt none of hys sōnes shuld alyen or make warrāty for to barre or to hurt ye other that shulde be in ye remayndre.&c. He caused to be made an endēture to such effect, that is to say that ye lādes & tenemētes were gyuē to his elder sōne vpō this cōdicion, ye yf the elder son alyened in fe or in Fee tayle.&c. or any of his sōnes alyend.&c. that thā theyr estate shulde cease & shulde be voyde, & that thā the sayd lādes or tenemētes immedyatly shulde remayne to ye seconde sōne & to the heyres of his body begotten, & that vpon the same cōdicion.s. that yf ye seconde son

alyen. &c. that thā his estate shuld cease, & that thā ẏ same lādes & tenemētes shulde remayne to ẏ thyrde sonne, & to ẏ heyres of his body begotten & so forth, ẏ remayndre to other of his sōnes, & lyuere of seasyn was made accordynge. But it semeth by reason that al such remayndres in the forme beforesayd be voyde, & of no value and ẏ for. iii. causes. One cause is bicause that euery remayndre yt begynneth by a dede, it behoueth yt the remayndre be in him to whō the remayndre is tayled byforce of ẏ same dede whā the lyuere of seasyn is made to him ẏ hath the frāke tenement. And suche remayndre was nat at the seconde sōne as the tyme of lyuere of seasyn in the case beforesayd. &c.

¶ The seconde cause is if the fyrst sonne alyen ẏ tenemētes in fe, than is the frāke tenement & the fee Symple in ẏ alyenee, and in none other, & yf ẏ donour had any reuercion by such alyenacion, ẏ reuerciō is discōtynued, thā though ẏ by some reason it may be ẏ suche remayndre shal begyn his beynge & his growynge, īmediatly after such alyenacion made to a straūger yt hath by ẏ same alyenacaon franke tenement & fee Symple, & also yf such remayndre shulde be good, thā may he enter vpon ẏ alyene where he had no maner of ryght before ẏ alyenacion, which shulde

be

be incõuenient. The thyrde cause is whã the cõdicyon is such ẏ yf the eldest sonne alyen. &c. Than his estate shall cease, or shalbe voyde. &c. Than after such alyenacion. &c. may the donour enter byforce of such cõdicion. &c. as it semeth, & so ẏ donour or his heyres in suche case oughte more soner to haue ẏ lãde than ẏ seconde sõne yt had no ryght before such alyenacion. &c. And so it semeth ẏ such remayndres in the case aforesayd be voyde. &c.

¶ Also at the comon lawe before ẏ statut of Glocester yf tenaũt by ẏ curtesy had alyened in fe w̃ warranty accordant, after his decease this was a barre to the heyre &c. as it appereth by ye wordes of ẏ same statute. But it is remedyed by ẏ same statute ẏ the warranty of ẏ tenaũt by ẏ curtesy shalbe no barre to ẏ heyre except he haue ynough by discent by ẏ tenaũt by ẏ curtesy for before ẏ sayd statute yt was a collateral warrãty to ẏ heyre bycause he coulde nat cõuey any tytle of discent to ẏ tenemẽtes by ẏ tenaũt by the curtesy, but onely by his mother or other of his auncesters. &c. and ẏ is the cause why it was collateral warrãty. But yf a mã enheryte take a wyfe which haue issue a sonne betwene thẽ, & the father dyeth & the sonne entreth in ẏ lãde & endoweth his mother and after ye mother alyeneth that, yt she

hath in her dower to another in fe with warrãty accordynge, & after dyeth, & the warranty discẽdeth to ẏ sonne, nowe the sonne shalbe barred to demaũde the same lãde bicause of ẏ sayd warrãty, bycause ẏ such collateral warranty of tenaũt in dower is nat remedyed by any statute. The same lawe is where tenaunt for terme of lyfemaketh an alyenacion with warrãty &c. and dyeth, and the warranty dyscendeth to him that had the reuercyon or ye remaindre. &c. they shalbe barred by such warranty. &c.

¶ Also in the sayd case yf it so were that whan ẏ tenaũt indower alyeneth. &c. the heyre was within age, & also at ẏ tyme ẏ the warranty discẽded vpon him he was within age, in this case ẏ heyre may after entre vpon ẏ alyenee nat wstandynge the warranty discẽded. &c. bycause that no laches shalbe adiudged in ẏ heyre win age that he entreth nat vpõ ẏ alyene in ẏ lyfe tenaũt in dower, but yf the heyre was win age at ẏ tyme of ye alyenacion, & after he came to ful age in the lyfe of tenaũt in dower, & so beynge of ful age entred nat in ẏ lyfe of tenaũt in dower & after the tenaũt in dower dyeth, there peraduẽture the heyre shalbe barred by such warrãty, bycause it shalbe accõpted his folye that he beyng of ful age entred nat in the lyfe of tenaunt in dower. &c.

¶ Also it is spoken in ꝑ ende of the sayd statute of Glocester that speketh of the alyenacion with warranty made by ꝑ tenaūt by the curtesy in suche forme.

¶ Also in the same maner the heyre of ꝑ woman after ꝑ death of father & mother shal nat be barred of accion ꝑ he demaūd the heritage or ꝑ mariage of his mother by a writ of Entre ꝑ his father alyened in ꝑ tyme of his mother wherof no fyne is leuyed in ꝑ kynges court. &c. And so by force of the same statute ꝑ ꝑ husbāde of the wyfe alyen ꝑ heritage or mariage of his wyfe in fe with warranty. &c. by hys dede in ꝑ contrey, this is clere lawe that this warranty shal nat barre the heyre except he haue ynoughe by discent. &c. But the doubt is ꝑ ꝑ the husbāde alyene the heritage his wyfe by fyne leuyed in the kynges court with warranty. &c. ꝑ thys shal barre ꝑ heyre wout any discent in value. &c. And as to ꝑ I wyll saye here certayne reasons ꝑ I haue herde say in this matter. I herde my mayster syr Rychard Newton late chyef Justice of the comon place say ones in ꝑ same place ꝑ such warranty ꝑ the baron maketh by fyne leuyed in the kynges court shal barre the heyre though ꝑ he haue nothyng by discent, by cause the statute sayth wherof no fyne is leuyed in the kynges court. &c. And so by

his opynyon this warranty by fyne.&c.a bydeth yet a colateral warrãty as it was at ẏ comon lawe nat remedyed by ẏ sayd estatute, bycause ẏ the sayd statute excepteth ẏ alyenacyons by fyne w̃ warranty. And some other haue sayd & yet say ẏ cõtrary, & this is their proofe ẏ as by ẏ same chapter of ẏ sayd statute it is ordeyned ẏ the warranty of ẏ tenaũt by the curtesye shal nat barre ẏ heyre excepte he haue by ynoughe discent.&c.though ẏ the tenaũt by the curtesy leuye fyne of ẏ same lãdes with warranty.&c.as strongly as he can yet this warranty shal nat barre ẏ heyre except he haue assetz or ynough by discẽt &c. And I beleue ẏ this is lawe. And ther fore they say ẏ it shulde be inconuenyent to vnderstande ẏ statute in such forme yt a man ẏ hath nat but in the ryght of hys wyfe may by fyne leuyed by him selfe of the tenemẽtes ẏ he hath but in ẏryght of his wyfe with warranty.&c.shal barre ẏ heyre of the sayd tenemẽtes w̃out dyscẽt of fe Symple.&c.where tenaũt by ẏ curtesy cãnat do it. But theyhaue sayd ẏ the statute shalbe vnderstãde after ẏ forme, ẏ is to say where ẏ statute speketh, wherof no fyne is leuyed in ẏ kynges court, this is to say where no lawful fyne is ryghtfully leuyed in ẏ same kynges court, & yt is wherof no fyne of ẏ husbande and his

wyfe

wyke is leuied in ꝑ kynges court, for at ꝑ tyme of the makyng of ꝑ sayd statute euery estate of lãdes or tenemẽtes ꝑ any man or womã had ꝑ shulde discẽde to his heyre was Fee symple wout cõdicion or vpon cõdicion in dede or in lawe. And bycause that such kyne thã myght lawfully haue ben leuyed by ꝑ husbãde & his wyke, & ꝑt the husbande & the wyke & the heyres of the husbande warrante. &c. Suche warranty shulde barre the heyre. &c.

¶ And so they say ꝑ this is ꝑ vnderstandynge of ꝑ same statute, for ꝑ ꝑ husbande and ꝑ wyke made a feoffemẽt in fe by dede in the contrey ꝑ heyre after ꝑ decease of the husbãde & the wyke shall haue a wryt of Entre sur cui in vita. &c. notwstãdyng the warranty of ꝑ husbande. Than ꝑ no such excepcyon was made in the statut of the kyne leuyed. &c. Than ꝑ heyre shulde haue the wryt of Entre. &c natwstãdyng the kyne leuied by ꝑ husbande & the wyke bycause ꝑ the wordes of ꝑ statute before the excepcion of ꝑ kyne leuyed. &c. be generally. &c. that is to say ꝑ the heyre of ꝑ woman after the death of ꝑ husbande & the wyke shal nat be barred of accyõ ꝑ he demaũde ꝑ herytage or ꝑ marryage of his mother by wryt of Entre ꝑ his father alyened in ꝑ tyme of his mother. And so it shulde be in ꝑ case of the stat except such

wordes

wordes were, þ is to say wherof no fyne is leuyed in þ kynges court. And so they say þt this is to vnderstande, wherof no fyne by þ husbãde & the wyfe is leuyed in the kynges court the which is lawfully leuyed in such case. For þt the Justyces haue knowlege þt a man þ hath nothyng but in þe ryght of his wyfe wyll leuye a fine in his name onely they wyll nat nor ought not to take such fyne to be leuyed by the husbande onely wout nampynge þe wyfe, therfore enquyre of this matter.

Also it is to wyt þ in such wordes where the heyre demaũdeth þ heritage or marryage of his mother, this worde is a disiũctiue, & is as much to say þt the heyre demaũde þe heritage of his mother, þ is to be vnderstãde þ tenemẽtes þt his mother had in fe ciple by discẽt or by purchase, or þt þ heyre demaũde þ marryage of his mother, þt is to say the tenemẽtes þ were gyuen vnto his mother in franke marryage.

¶ Also where it is moued in dyuers dedes these wordes in lati. Ego et heredes mei. &c. warrãtizabim⁹ et imppetuũ defẽdem⁹, it is to se what effect hath þ worde defendemus in such dedes. And it semeth þ it hath nat the effect of warrãtyse nor cõprehendeth any cause of warrãtyse, for þt it shulde be so þ it taketh effect or cause of warrãtyse, thã it shulde be put in some fines leuyed in þ kynges court. And a man

* The effect of this worde (defendemus) in dedes

neuer sawe ꝑ these wordes defēdem⁹ was in any fyne but al only this worde warrantizabim⁹ by which it semeth that thꝫ verbe warrantiso maketh warranty, and is the cause of warrantyse, & none other worde in our lawe.

¶ Also yf tenaūt in ꝑ tayle be seased of tenemētes deuisable by testamēt after ꝑ custome. &c. And ꝑ tenaūt in the tayle alyeneth the tenemētes to his brother in fe, & hath yssue & dyeth, & after his brother deuyseth by his testamēt ꝑ same tenemētes to another in fe, & bindeth him & his heyres to warrātyse. &c. And dyeth wout issu it semeth yᵗ this warranty shal nat barre the issue in ꝑ tayle if he wyl sue his wryt of Formedon, bycause ꝑ this warrāty discēded nat to yᵉ issue in ꝑ tayle in so much as the vncle of yᵉ yssue was not boūde by force of ꝑ same warranty in his lyfe. And therof ꝑ he coulde nat warrant yᵉ lāde in his lyfe is in so much ꝑ the deuyse coulde nat take any execucion or effect but after his decease, & in so much ꝑ the vncle in hꝫ lyfe wasnat holdē to warrāty, such warrantise ne may nat discēde frō him to the issue in the tayle. &c. for nothyng may discēde frō the aūcestry to his heyre but the same ꝑ was in ꝑ aūcestre. Also a warrāty may nat go wout the nature of tenemētꝫ by custome, but only aft yᵉ forme of yᵉ co

*Warrantye

mon

shal ensue the course of the comon lawe.

mon law. For yt tenaũt in tayle be seased in tenemẽtes in borough Englysche, wher the custome is ꝑ al tenemẽtes of the same borough ought to discẽde to ꝑ yongest son and he discõtynueth ꝑ tayle with warrãtyse. ꝛc. and hath yssue. ii. sonnes & dyeth seased of other landes & tenemẽtes in the same borough in Fee symple to ꝑ value & more of ꝑ tenemẽtes tayled ꝛc. yet ꝑ põgest sõne shal haue a Formedon of ꝑ tenemẽtes tayled, & shall nat be barred by the warrantise of his father though ynough to him discẽded in Fee symple fro ꝑ same father after the custome, for this that the warrãty discẽdeth upõ the elder brother ꝑ is in ful lyfe. ꝛc. and nat upõ the yongest sõne. In ꝑ same maner it is of collateral warrãtyse made of such tenemẽtes where the warrantyse discẽdeth to ꝑ elder sõne ꝛc. this shal nat barre the põger sõne. ꝛc. In the same maner it is of tenemẽtes in the shyre of Kent which be called Gauel kynde, ꝑ which tenemẽtes be ꝛpartable amõge ꝑ bretherne. ꝛc aft ꝑ custome. ꝛc. if any such warranty be made by their aũcestors, such warrantyse discẽdeth al onely to ꝑ heyre ꝑ is heyre by ꝑ comon lawe and nat to al the heyres which be heyres of suche tenemẽtes after the custome. ꝛc.

¶ Also yf a tenaũt in tayle haue yssue. ii. daughters by dyuers bẽtres & dyeth, & ꝑ

daughters

daughters entre & a straunger dysseaseth thē of yᵉ same tenemētes, & one of ẏ daughters releaseth by her dede to the dissea sour al her ryght & bideth her, & her heyres to warrantyse, & dyeth wout issue, in this case the fyrst yᵗ suruyueth may wel entre & put out yᵉ disseasour of al ẏ tenemētes, for this yᵗ suche warrantyse is no discōtynuaūce nor collateral warrantise to the syster yᵗ suruyueth for this yᵗ they be of halfe blode, and the one may nat be heyre to the other after the comon lawe. But otherwyse it is where there be daughters of tenaūt in yᵉ tayle by one vēter ¶ Also yf tenaūt in ẏ tayle let tenemētes to another for terme of lyfe ẏ remayndre to another in fe, & the collateral aūcester cōfyrmeth the estate of yᵉ tenaūt for tme of lyfe & bideth him & his heyres to warrantyse for tme of lyfe of the tenaunt for terme of lyfe & dyeth, & the tenaūt in the tayle hath yssue & dyeth, nowe this yssue is barred to aske yᵉ tenemētes by wryt of Formedon durynge yᵉ lyfe of the tenaūt for tme of lyfe, bycause of the collaterall discēt vpon the issue in tayle. But after ẏ decease of the tenaūt for terme of lyfe, yᵉ yssue shal haue a Formedon. &c. And vpō thȝ I haue herde a reason ẏ this case shal ꝓue by another case, yᵗ is to say yf a man let his lande to another to haue & to hold

to

to him & to his heyre for tme of another lyfe, & the lessour dyeth, leuynge hym to whose lyfe. &c. And a straūger entreth in the lande þ the heyre of the lesse may put him out, for this þ in the case next afore-sayd, in so much þ a man may bynde him and his heyres to warrant to the tenaūt for tme of lyfe al only durynge þe lyfe of the tenaūt for tme of lyfe, & that warrantyse discendeth to þe heyre of him þt made the warrantyse, þe which warrantyse is no warrantyse of inheritaūce, but al onfor terme of anothers lyfe by þe same reason where tenementes be let to a man to to haue & to holde to him & to his heyres for tme of another lyfe, yf the father dye lyuynge he to whose lyfe his heyre shall haue þ tenemētes leuynge him to whose lyfe. &c. For they haue sayd that yf a man graūt an annuyte to another to haue & to take to him & to hys heyres for terme of anothers lyfe, yf the graūte dye. &c. That after his heyre shal haue the annuyte durynge the lyfe of hym to whose lyfe. &c.

☞ Enquyre.

Quere de ista materia. But where suche lease or graūt is made to a mā or his heyres for tme of yeres, in this case þe heyre of the lesse, & the graūte shal neuer haue after þ death of þe lesse or þe graūte þ, þt is so lettē or graūted, for this þ it is Chareal, & al chatels reals by þe comon lawe shall

shal come to the executours of yᵉ graũte or of the lessee and nat to the heyre.&c.

¶ Also in some cases it may be yᵗ howbe it ẏ a collaterall warrantyse be made in fee.&c.yet such warrantyse may be defeted & anyented. As the tenaũt in the tayle discõtynue ẏ tayle in fe, & the discõtynue is dissease & the brother of ẏ tenaũt in ẏ tayle releaseth by his dede to the dysseasour al his ryght.&c.with warrantyse in fe & dyeth wout yssue & the tenaũt in the tayle hath yssue & dyeth, nowe the yssue is barred of his accion byforce of the collateral warrantyes discẽdynge vpõ him, but yf aft this the discõtynue entre vpon the dysseasour, than may the heyres in ẏ tayle haue his accyon of Formedon.&c. for this ẏ the warrante is anyented & defeted. For whan ẏ warrãtyse is made to a man vpõ any estate yᵗ than he had, yf the estate be defeted the warranty is defeted

¶ In the same maner it is yf the discõtynue make a feoffemẽt in fe reseruynge to him certayne rent, & for defaut of paymẽt a reentre.&c. & a collateral aũcestre releaseth to the feoffe ẏ hath estate vpõ cõdycion.&c. & dyeth wout issue though ẏ the warrantise discẽde vpõ ẏ issue in ẏ tayle, yet yf aft the rent be behynde & the discõtynue entreth into the lande.&c.than the yssue in ẏ tayle shal haue his recouere by

*Warrantye collaterall anyent, and defete.

a wryt of Formedon, for this ẏ the warranty collateral is defeted. And so yf any such collateral warrantyse be pleaded agaynst ẏ issue in yᵗ tayle in his accion of Formed̄ he may shewe the matt̄ as it is a foresayd, howe the warranty is defeted, and so he may wel maynteyne his accion ¶ Also yf tenaūt in ẏ tayle make a feoffement to his vncle & after his vncle make a feoffemēt in fe with warrantyse. &c. to another, & after the feoffe of the vncle enfeoffeth agayne the vncle in fe, & after yᵉ vncle ēfeffeth a straūger in fe wout warrantyse & dyeth wout yssue, & the tenaūt in the tayle wyl brynge his wryt of Formedon agaynst the straūger ẏ was in the feoffemēt. &c. by the vncle, in this case yᵉ issue shal neuer bebarred by the warrāty that was made by the vncle to the sayde fyrst feoffe of his vncle, for thī ẏ the sayd warrantyse was defeted & anyented, for this that the vncle toke agayne to him as great estate of his sayd fyrst feffe to whō the warranty was made as ẏ same feoffee had of him. And the cause why the warranty is anyented, in this case is this, yᵗ is to say ẏ yf the warrantyse were in his force, than the vncle shal warrant to him selfe, ẏ may nat be, but yf the feoffe made estate to the vncle for t̄me of lyfe or in Fe tayle, sauynge the reuercyon to him. &c.

Or ẏ he make a gyft in ẏ tayle to ẏ vncle or a lease for t̃me of lyfe, the remayndre ouer.&c. in this the warrantyse is nat al vtterly anyented, but it is put in suspẽce durynge the estate yᵗ the vncle had, for aft̃ this ẏ the vncle is dead wout yssue, than he in the reuercyon or he in the remayndre shal barre the issue in the tayle of his wrypt of Formedon by the collateral warrantyse in such case.&c. But otherwyse it is where the vncle had as great estate in the lande by the feoffe to whõ ẏ warrantyse was made as the feoffee had of him.
¶ Also if the vncle after such feoffement made with warrantyse or a release made by him with warrantyse be attaynted of felony or outlawed of felony, such collateral warrãty shal nat barre nor greue ẏ issue in ẏ tayle, for thĩ ẏ by the attayndre of felony ẏ blode is corrupt bytwene thẽ
¶ Also if the tenaũt in the tayle be dissea sed, & after maketh a release to the dyssea sour with warrãtyse in fe, & aft̃ ẏ tenaũt in the tayle is attaynt or outlawed of felony & hath issue & dyeth, in this case the yssue in ẏ tayle may entre vpõ ẏ disseasor
¶ And the cause is for this yᵗ nothynge maketh discõtynuaunce in this case, but the warranty, & the warrantye may nat discẽde to the yssue in the tayle for this ẏ the blode is corrupt bitwene him ẏ made

the waranty & the yssue in the tayle. For the warrātyse alway abideth at ẏ comon lawe, & the comon lawe is suche ẏ whan a man is outlawed or attaynt of felonye, whiche outlawry is an attayndre in the lawe that the blode betwene hym & hys sonne and all other which shulde be sayd his heyres is corrupte, so that nothynge by dyscent may discende to any that may be his heyres by the comon lawe. And ye wyfe of such a man that is so attaynt shal neuer be endowed in the tenementes of her husbande so attaynt.

And the cause is bycause men shulde more eschewe to do felonye. &c. But the yssue in the tayle as to the tenementes tayled is nat in such case barred bycause he is enherited byforce of the statute and nat by the course of the comon lawe. And therfore suche attayndre of his father or of his auncestre in the tayle. &c. shal nat put him out of his ryght that he shulde haue byforce of the tayle. &c.

¶ Also yf tenaunt in the tayle enfeoffe yt his vncle which enfeoffeth another with warranty. &c. yf after ẏ feoffe by his dede release to the vncle all maner of warrantye, or all maner of couenauntes reals, or all maner of demaundes by suche release the warrantye is extynct. And yf the warrātye in such case be pleaded agaynst the

heyre

heyre in ye taple that bringeth his writ of Formedon to barre the heyre of his ac cyon, yf the heyre haue and plede the sayd release. &c. he shal defete the plee in barre &c. And many other cases and matters be there, wherby a man may defete warran tyse.

¶ And it is to wyt that in ỹ same maner as collateral warranty may be defeted by matter in dede or in lawe, in the same ma ner may lyneall warrantie be defeted. &c. For yf the heyre in ỹ taple bringe a writ of Formedon, & a lyneal warranty of his auncestre inheritable by force of ỹ taple be pleaded agaynste him with that, that : alletz to him discended of Fee symple by the same auncester that made the warrantye yf the heyre that is demaundaunt may adnull : and defete the warran ty, this suffyseth to him for the discent of other tenementes yf Fee symple maketh nothynge to barre the heyre without the warrantye.

¶ Finis.

Here begynneth the table of this present boke.

Nowe haue I made for the my sōne thre bokes.

¶ The fyrst is of estate that men haue of landes or tenementes, that is to say. Of tenaunt in Fee symple.

Tenaunt infee tayle.

Tenaunt in the tayle after possibylyte of yssue extyncte.

¶ Tenaunt by the curtesy of Englande.

Tenaunt in dower.

Tenaunt for terme of lyfe.

Tenaunt for terme of yeres.

Tenaunt at wyll by the comon lawe.

Tenaunt atwyl by the custome of the maner.

¶ The seconde boke.

The seconde boke is of Homoge, Fealte, and Escuage.

Knyghtes seruyce.

Socage.

Franke almoygne or fre almes.

Homage auncestrell.

Graunt sergeanty.

Petyte sergeanty.

Tenure in burgage.

Tenure in byllenage.

* Of.iii.maners of rentes, that is to say.

Rent seruyce.

Kent charge.
and Kent secke.
¶ And these two smalle bokes haue I made for the to vnderstande better, certayne chapters of the auncyent bokes of tenures.

¶ The thyrde boke.

¶ The thyrde boke is of Perceners.
Of Joyntenauntes.
Tenauntes in comon,
Estates of landes or tenementes vpon condycyon.
Dyscentes that take away entres.
Contynuall clayme.
Releses.
Confyrmacyons.
Attournementes.
Remptters of garrantyes, that is to say, Garranty lyneall, garranty collaterall, and garrantye that begynneth by disseasyn.

¶ Finis tabule.

¶ The auctour to the reader.

AND knowe thou my sonne that I wyll nat that thou byleue that all that I haue sayd in this sayd boke be lawe, for that wyll I nat take vpon me nor presume. But of those thynges that be nat lawe enquyre & lerne at my wyse

maysters

The auctour to the reader.

mayſters lerned in the lawe. Natwithſtandynge though that certayne thynges that be noted and ſpecyfyed in the ſayde bokes be nat lawe, yet ſuch thynges ſhal make the more aptt and able to vnderſtande and lerne the argumentes & the reaſons of the lawe. For by the argumentes and the reaſons in the lawe a man may more ſoner come to the certaynte and to the knowlege of the lawe. Lex plus laudatur quando ratione probatur.

C : Imprynted at London in Fletſtrete at the ſygne of the George next to ſaynt Dūſtones church by Wyllyam Myddylton. In the yere of our Lorde 1544. The fourth day of May.